EUROPEAN UPSTREAM ENERGY COOPERATION: POLITICAL RISK, MILIEU-SHAPING AND POLITICO-COMMERCIAL RELATIONS IN THE CASPIAN SEA REGION

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ABSTRACT

The development of an energy role for the European Union has been a divisive area of EU policy. The competing interests and differing perspectives of member states, EU institutions and commercial energy players have hampered the development of downstream European internal energy markets, obstructed the construction of mid-stream transportation routes that would diversify European energy supplies and hindered the EU’s ability to ‘speak with one voice’ towards major suppliers. However, despite widespread scholarly coverage of EU energy issues, the tri-lateral upstream interaction between European institutions, member states and energy companies in the countries where oil and gas are produced has received less academic attention. This thesis seeks to address this lacuna in the literature through an examination of upstream intra-EU cooperation in the Caspian region. This study finds that the EU’s upstream oil and gas policy in the Caspian is, relatively speaking, more coherent than many other areas of European energy policy. In the Caspian, European convergence forms, in particular, around the EU’s collective political risk mitigation and market facilitation role. Employing an interdisciplinary International Political Economy approach, the thesis examines how the EU’s model of European energy supply entails dependence on the commercial sector which compels political actors to support companies in strategic regions through milieu-shaping energy governance and commercial (energy) diplomacy. The thesis demonstrates how European actors share similar upstream risk perceptions, promote overlapping security and market-based policy perspectives and how both member states and companies increasingly encourage an EU foreign policy role in meeting these upstream challenges. In doing so, this research examines the EU’s risk-mitigating external energy governance, the EU’s diplomatic practice in upstream energy and the dynamics of European politico-commercial interaction in the Caspian - core aspects of an under-researched, but ultimately increasingly cooperative, part of EU external energy policy.
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DECLARATION

Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are the work of the named candidate and have not been submitted for any other academic award.

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ABBREVIATIONS

BTC - Baku-Tbilisi-Ceyhan
CFSP – Common Foreign and Security Policy
CIS – Commonwealth of Independent States
CSO – Civil Society Organisation
DCFTA – (EU) Deep and Comprehensive Free Trade Agreement
DEVCO (DG) – Directorate General Development Cooperation
DG – Directorate General
EAP – Eastern Partnership
ECT – Energy Charter Treaty
EEAS – European External Action Service
EIA – Energy Information Administration
EITI – Extractive Industry Transparency Initiative
ENP – European Neighbourhood Policy
EU – European Union
EurAsEC – Eurasian Economic Community
FDI – Foreign Direct Investment
FPA – Foreign Policy Analysis
GATT – General Agreement on Tariffs and Trade
IEA – International Energy Agency
IFIs - International Finance Institutions
INOGATE - Interstate Oil and Gas Transport to Europe
IPE – International Political Economy
IR – International Relations
ITGI - Interconnector-Turkey-Greece-Italy
KMG - Kazmunaigaz
KPO - Karachaganak Petroleum Operating B.V.
MOU – Memorandum of Understanding
MIGA - World Bank’s Multilateral Guarantee Investment Agency
NATO – North Atlantic Treaty Organisation
NCOC - North Caspian Operating Company
NIS – Newly Independent States
NOC – National Oil Company
OPEC – Organisation of Petroleum Exporting Countries
OGP - International Association of Oil and Gas Producers
PCA – Partnership and Cooperation Agreement
PEEREA - Protocol on Energy Efficiency and Related Environmental Aspects
PSRS – Post Soviet Rentier State
TACIS - Technical Assistance to the CIS
TAP - Trans-Adriatic Pipeline
TCO – Tengizchevroil
TFEU - Treaty on the Functioning of the European Union
WTO – World Trade Organisation
UN – United Nations
No academic journey is ever travelled alone. Indeed, numerous people have helped immeasurably in the process of researching and writing this PhD. Firstly, I would like to express my sincere thanks to Paul Flenley, for his endless calm, inspiration and commitment to my project despite my occasional off-the-wall ideas and panicky emails. Secondly, I would also like to thank my other supervisors, Wolfram Kaiser and Fergus Carr for their input and guidance throughout the past three and a half years. To all my supervisors I am sincerely grateful. Thirdly, I would like to thank all my colleagues who have helped me along the way with input into my research, guidance and general support. These include Karen Heard-Laureote, Christoper Huggins, Ivano Bruno, NK, Mike Redgrave, Nick Onuf, Rob Frith, Theresa Callan, Tony Chafer, Kay Peggs, Angela Crack, Alice Colombo, Patricia Shamai, Charlotte Bretherton, Dave Carpenter, Olivia Rutazibwa, Joanna Warson and Mark Field. Particular thanks go to Chris, Karen, Paul, Wolfram, and Rob who have all been there at major and decisive moments. Thanks are also due to Piers McEwan and Donna Ferrand for all their assistance.

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Finally, to Robyn. It's not easy living with a PhD student. For all your love, support and kindness, I will be forever truly grateful.
RESEARCH DISSEMINATION

Below is a list of all publications and conference presentations that have so far been produced from this research project.

PUBLICATIONS AND ABSTRACTS


Accounts of international energy affairs often present a divergence between geopolitical/realist and liberal market-based approaches. This article suggests that this state of affairs reflects the (often implicit) legacies of realist and rationalist international thought in the study of energy affairs and the corresponding political and economic ontological hierarchies of analytical frameworks employed in different accounts of energy politics. Consequently, this article recommends a greater explicit attention to scientific ontological foundations in studies of energy relations and, in line with the calls of Keating *et al.* and Strange, suggests an approach based in the literature on I/GPE, which merges political and economic ontological axioms, as most apposite for the study of energy affairs. Building on this framework, and giving particular examples from the context of Eurasian energy politics, this article then outlines a number of politico-economic heuristic models (structural diversity, territorial non-coincidence, milieu-shaping and market-authority bargains) that are particularly useful concepts in helping to explain the intricate interactions of international energy relations.
In the European Union, energy security is provided by EU institutions, member states and commercial energy companies. However, despite the important role companies play in the provision of European energy security, it is not immediately evident to what extent the interests of the internationally operating energy firms are in line with the energy security preferences held by EU institutions. Analysing this relationship from the perspective of perceptions of energy security and energy business risk, this paper examines the extent to which there is a convergence between the energy securitisation of the European Commission and the observation of business risk as perceived by major European and international energy firms. It finds that while there are some significant areas where Commission securitisation contradicts energy company interests (e.g. climate change and energy prices) there is also a high degree of convergence, in particular regarding perceptions of upstream political risk.

While the resource curse and resource nationalism both concern negative effects derived from the possession of natural resource wealth, these two energy-related phenomena present quite different challenges for policy makers. On the one hand, resource nationalism is strongly associated with discussions of energy security. One thinks, for example, of Thomas Friedman's “first law of petropolitics” that stresses the link between increased resource wealth in oil and gas producing countries and increasingly assertive producer state behaviour. In contrast however, the resource curse has normally been analysed in terms of domestic political transformations and the socio-economic development of oil producing states (or lack thereof). The focus of resource curse analysis
has tended therefore to be directed towards the internal domestic political and economic behaviour of energy producing states. As a result, energy security has played a much smaller role in this resource curse context.

This lack of an energy security perspective is erroneous. While often disastrous for the citizens of countries afflicted by it, the resource curse also presents a profound set of energy security challenges for energy importing countries. This article argues that the resource curse presents a threat to energy security in at least two ways. Firstly, the risk of resource nationalism is exacerbated by the resource curse. While the effects of both resource nationalism and the resource curse are well documented independently of one another, the potential for an explicit cyclical interaction between the two is seldom stated and consequently the energy security consequences of the resource curse tend to be downplayed. In reality the effects of the resource curse provide a strong motivation for producer states to engage in deliberate resource nationalistic behaviour. Secondly, the resource curse produces unintended consequences that can have serious energy security implications. In the light of the recent Arab revolutions in North Africa and the Middle East, the impact of the negative political and economic effects of the resource curse cannot be thought of as a domestic issue relevant only to the country in question. Rather, as will be discussed, these issues have a significant impact on state stability, particularly given the fact that the resource curse tends to create precisely the sort of destabilizing underlying political and economic factors that have given rise to the Arab Spring (corruption, unemployment, repressive state practices etc.).


Energy governance in the Caspian region is characterised by a nexus of multiple, partially competing institutional structures initiated and promoted by different regional powers. This article provides a conceptualisation and explanation of this intricate energy picture
based on the concept of regime complexity. The notion of regime complexity, particularly when combined with a critical understanding of regime formation, provides a useful heuristic model that explains the fragmented and partially conflicting nature of energy governance in the region. This article has two broad objectives. Firstly it seeks to demonstrate how the fragmented energy governance picture in the Caspian region can be conceptualised as an energy governance regime complex. Secondly, utilising a modified, critical vision of regime complex formation, the article seeks to explicate this complexity based on an account of the distributional problems of energy governance in the Caspian, the contested normative and material position of the region at the centre of contemporary Eurasia and the institutional multi vector balancing of Caspian Sea states.


Energy security is a matter of serious concern across Europe and the countries of Eurasia. For EU member states like Germany or the United Kingdom, energy security is about security of supply and keeping energy prices below a level that causes social and economic harm. For the oil and gas-rich nations of the former USSR, such as Russia or Kazakhstan, the security sought is security of demand, maintained at prices high enough to ensure that state budgets are sustained and that social and economic progress is ensured. When one surveys the literature and commentary on energy policy, one quickly realises that it is broadly split between two contrasting ways of understanding energy security: a market economic-based approach and a geopolitical approach. These understandings often however neglect each other and consequently fail to give a comprehensive analysis of the causes of energy security. This paper forwards a different approach arguing that to understand how energy security problems arise, one needs to focus on how energy markets are affected by pressures emanating from the diversity of political and economic structures across states that are linked together in energy interdependence.

This policy brief addresses the content of the new communication and places it within the context of an evolving EU external energy policy. It focuses specifically on the developments proposed and highlights both the areas of novelty and continuity inherent in this new Commission outline for external energy. In particular, it presents how the communication fits within the broad overarching themes of EU external energy policy: managing global demand, interdependence with major energy partners and management of political and investment risks to commercial actors.

CONFERENCE PAPERS GIVEN

* Squaring the Circle? The Resource Curse and Normative/Security Policy Agendas in the EU Periphery. Presented at the UACES Annual Conference Passau, Germany 3-5th September 2012

* Between a Rock and a Hard Place: Internal-External Legitimacy Tensions and EU Central Asian Relations. Presented at the UACES Annual Conference Passau, Germany 3-5th September 2012


Capturing Contestation in Caspian Energy: Regime Complexity and EU Eurasian Energy Governance. Presented at the University of Manchester 2nd Jean Monnet Centre of Excellence Conference: Exits from the crisis; integration versus disintegration. Manchester, UK 12th January 2012

CHAPTER ONE

EUROPEAN UPSTREAM OIL AND GAS COOPERATION IN THE CASPIAN: RESEARCH AIMS AND CONTEXT

The energy resources of the Caspian region have been the focus of much strategic attention since the end of the Cold War (Manning & Jaffe, 1998; Karasac, 2002; Kalicki, 2001; Barylski, 1995). Indeed, the Caspian is frequently presented as the epicentre of a “new great game” where today’s protagonists Russia, the USA, China and the EU are thought to vie for influence and power in Eurasia just as Britain and Russia did in the 19th century (Menon, 2003; Kleveman, 2004; Zabortseva, 2012). In line with this narrative of contestation, much of the discussion of the Caspian in the literature on European energy politics focuses on the region’s role in global competition over energy supplies (Denison, 2009; Pardo Sierra, 2010; Lussac, 2010a). From an EU perspective, the post-Soviet littoral states of the Caspian Sea (Kazakhstan, Turkmenistan and Azerbaijan1) are seen to possess the energy resources needed for the prospective pipeline routes of the ‘Southern Corridor’ that would, in transporting energy to Europe via the Caucasus and Turkey, reduce reliance on Russian energy supplies and infrastructures (EU, 2011, p.5; EC, 2010b, p.11). Indeed, accessing Caspian energy is an integral part of EU plans to diversify European oil and gas supplies and an important feature of the EU’s wider attempts to build a common EU energy policy (Socor, 2007, p.117; Roberts, 2010; Baran, 2007).

However, the development of a common EU energy policy - including the Southern Corridor - has been fraught with difficulty. Much of the academic analysis of energy

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1 Russia is of course also a post-Soviet Caspian littoral state, but due to its size and broader significance not ordinarily considered as a ‘Caspian’ country.
politics in Europe highlights the sense of discord and incoherence that is often thought to characterise the EU's attempts to establish a common energy policy (Youngs, 2007; 2009; Kovačovská, 2007; Schmidt-Felzmann, 2008; 2011; Braghiroli & Carta, 2009). The EU has faced successive difficulties in reaching agreement on energy policy in a number of areas, most prominently downstream internal energy market liberalisation, mid-stream energy supply diversification and the formulation of a common position towards core energy suppliers, notably Russia (Buchan, 2009; Leonard & Popescu, 2007; Gros, 2008; Swieboda, 2008; Baran, 2007; Schmidt-Felzmann, 2008; 2011). Discussion of the economic, commercial and political divisions that have mired the EU's energy policy efforts is one of the dominant themes in the literature on EU foreign energy policy. Indeed, the challenge of overcoming European disunity in energy policy often seems to mirror the well-documented difficulties that the EU has experienced in formulating a wider Common Foreign and Security Policy (CFSP) (Hill, 1993; Toje, 2008; Wood, 2011).

However, alongside these down and mid-stream attempts to develop a common energy policy, the EU has for a number of years also sought to promote a series of upstream oil and gas policy objectives – i.e. energy policy goals within the countries where oil and gas is actually produced (EU, 2004; 2009b; EC, 2006b). Nonetheless, comparatively less research has focused on this aspect of EU energy policy.

The European Union has been active in the Caspian region since the early 1990s. Following the fall of the Iron Curtain, EU regional reconstruction packages, such as Technical Assistance to the CIS (TACIS) that targeted the natural resources sector were quickly adopted by European member states in an effort to help support the weak economies of the Newly Independent States (NIS), including those in the Caspian (Hadfield, 2008b, p.325). In particular, the INOGATE energy programme (Interstate Oil and Gas Transport to Europe), itself part of TACIS, sought to provide technical assistance to ageing Soviet infrastructures, increase regional energy integration between the EU and
markets in Eurasia and ultimately to secure the flow of energy resources to the European Union (Hadfield, 2008b, p.325). Nevertheless, despite technical programmes such as these and the presence of Caspian countries in the Energy Charter process, during the 1990s and the first half of the 2000s the Caspian Sea region did not feature especially prominently on the European Union's foreign policy agenda, remaining a “forgotten region” of presumed Russian influence (Zabortseva, 2012, p.168-9; Lussac, 2010a, p.609) and the recipient of only low-level technical assistance despite the growing involvement of Western and European companies in the region (such as BP, Shell, Total and ENI).

Indeed, it was not until the mid-2000s (and 2006-8 in particular) that the EU stepped up its focus on the Caspian region (Denison, 2009, p.5). In 2004, the EU included the countries of the South Caucasus and Central Asia in the Baku Initiative, a regional energy programme designed to facilitate energy cooperation between Black and Caspian Sea littoral countries and the EU (EU, 2006a). In 2006, at the second Ministerial Conference of the Baku Initiative, the programme was up-scaled with the signing of a detailed energy cooperation ‘road map’ (the so-called Astana Road Map). Likewise in 2006, the EU signed memoranda of understanding (MOU) on energy with Azerbaijan and another, later in the same year, with Kazakhstan (EU, 2006a; 2006b). In 2007, the EU launched its flagship Central Asia Strategy with energy and transport as one of the seven core areas of cooperation and with other areas of the strategy, such as trade and investment and the rule of law, overlapping with energy policy concerns (EU, 2009b, p.21-23). In 2008, a MOU was signed with Turkmenistan as part of the closer, but still tentative, cooperation between Brussels and Ashgabat (EU, 2008). On the European side of the Caspian, Azerbaijan was included in both the European Neighbourhood Policy (ENP) in 2004 and the Eastern Partnership (EaP) announced in 2008 - both seeking, *inter alia*, to facilitate cooperation on energy policy.
This change of focus in EU Caspian energy policy was primarily caused by factors exogenous to the region. The Russia-Ukraine gas crisis of 2006 (and subsequent crises with Belarus in 2007 and Ukraine again in 2009) added to the already tense atmosphere of heightened global demand and rapidly increasing energy prices (Lussac, 2010a, p.619; Schmidt-Felzmann, 2011, p.575). The 2006 and 2009 gas crises fundamentally challenged core European assumptions about the security of external energy supplies and, in particular, significantly damaged EU member states’ perception of Russia and Ukraine as reliable energy suppliers (Umbach, 2010, p.1230). The more or less simultaneous timing of the EU’s increased attention to energy security concerns and its increasing focus on the Caspian region is of course no coincidence. Unsurprisingly, given its natural resource wealth, proximity to the EU and potential source of diversification for both oil and gas, the Caspian region loomed into focus for EU foreign and energy policy makers as a potential source of additional energy supplies (Youngs, 2009a, p.101). The geographical proximity of the Caspian and the ability to transit supplies to Europe via Turkey, rather than Russia and Ukraine, make the Caspian a geopolitically advantageous source of energy resources.

However, in addition to the importance of the Ukraine-Russia gas crisis in shaping the EU’s engagement with the states of the Caspian region, the desires of European companies already active in the Caspian region for greater EU-level engagement (and support for alternative non-Russian pipeline routes) should also be factored in as an additional explanation for increased EU engagement in the region (BG Group, 2006, p.7-8; Statoil2, 2006, p.9). Likewise, by 2006 some member states, notably the UK, were starting to call for greater EU involvement in the Caspian upstream (UK Government, 2006, p.28) (discussed further in chapter six).

2 Statoil is of course not an ‘EU’ company but one that nonetheless has an important supply relationship with EU firms and states.
**Thesis focus**

Despite the increased salience that Central Asian and Caspian energy developments have attracted since the mid-2000s, little research has explicitly investigated the EU’s *upstream* energy policy practice in the Caspian region (as elsewhere in the upstream) or the EU’s evolving upstream relations with commercial energy actors. Indeed, as Padgett (2011, p.2) notes, there has been “little research into the institutions that the EU has created in the attempt to consolidate its relations with strategically important energy partners in the wider Europe”. Likewise, Bosse and Schmidt-Felzmann (2011, p.481) assert that “in the current academic literature on foreign relations of European states and the EU with the *wider neighbourhood*, research on the increasingly important developments in the Union’s external energy policy still are rather scarce” [emphasis added]. As described later in this chapter, the literature on politico-commercial relations in EU foreign energy policy has received even less attention.

This thesis addresses this lacuna in the research by focusing on EU upstream energy (oil and gas) cooperation³ between political and commercial actors in the Caspian region. Ultimately, this study finds that, while not in perfect alignment, the major externally-operating European energy actors - the European Commission and the European External Action Service (EEAS), member states and European-supplying oil and gas companies - demonstrate more cooperation and coherence in the Caspian upstream than is generally observed in other areas of energy policy. Furthermore, this cooperation appears to be increasing and is centred, in particular, on a series of EU policies and practices aimed at the mitigation of political risk.

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³ While processes of convergence and interaction between European actors and the supranationalisation of certain diplomatic functions are discussed in the following chapters, the investigation here is at the ‘ontological’ or integration/cooperation stage of the European policy process (Radaelli, 2003, p.33) rather than a study of ‘Europeanisation’ (internal or external). Indeed, this study is concerned with why European states (and non-state actors) cooperate and is thus not, to continue Radaelli’s expression, at the ‘post-ontological’ stage i.e. involving investigation of the Europeanising impact of established EU institutions or processes on the actors operating within and in conjunction with them (Radaelli, 2003, p.33).
The research question for this thesis is thus:

How cooperative are relations between the externally-operating EU institutions, EU member states and European commercial energy actors in the Caspian upstream?

Investigation of this cooperation centres on two dimensions of EU upstream policy that affect all European political and commercial energy actors operating in the Caspian: 1) the promotion of energy governance pertaining to the oil and gas industry; and 2) the practice of EU energy diplomacy - particularly a) protective “problem-solving” commercial diplomacy (Kostecki & Naray, 2007, p.10) that supports companies in foreign markets - and b) EU “catalytic diplomacy” referring to the broader interdependent diplomatic interaction between non-state, EU and member state actors in European diplomatic practice (Hocking, 2004a, p.100). These governance and diplomatic policy areas, as will be shown below, are deeply entwined. Indeed, EU upstream oil and gas governance refers to policies that seek to affect the rules, practices and norms by which energy production, trade and investment are managed while energy diplomacy (at least in this context) refers to both the EU’s diplomatic efforts to support these governance initiatives and manage the impact of politics on energy production, trade and investment.

This thesis focuses specifically on upstream governance and energy diplomacy in oil and gas (the primary sources of EU energy supply). In doing so it examines two of the most significant policy areas for EU-commercial relations that exhibit potential for both cooperation and tension between EU member states, energy companies and the externally-operating EU institutions. It is important to note that the interaction between European actors discussed in the thesis is not harmonisation - that is to say the propitious alignment of interests - but rather cooperation (Keohane, 1984, p.51). Indeed, this thesis documents cooperation between actors who “adjust their behaviour to the actual or anticipated preferences of others, through a process of policy coordination” (Keohane, 1984, p.51). While there is a commonality of certain overlapping interests between these
actors, as outlined in the following chapters, they also regularly engage in forms of policy coordination that are sometimes formalised, but also at times informal and ad-hoc. In concentrating on cooperation in oil and gas upstream policy, this thesis does not attempt to survey the totality of EU’s wider energy cooperation in or with Caspian states (which is beyond the focus of this thesis). There is no attention here, for example, to nuclear energy cooperation and only attention to climate change and renewables when directly relevant to oil and gas matters.

The rest of this introductory chapter sets the scene for this study. It begins by specifying more precisely the argument presented and theoretical approaches adopted. Secondly, it outlines the research aims and questions addressed in the thesis and sets out the chapter running order. The third part of the chapter then presents a review of relevant themes in the literature, highlighting a number of the challenges the EU has faced in developing a common external energy policy and setting out some of the major energy-related dynamics that confront the EU in the Caspian. This section concludes with a review of the surprisingly limited literatures on EU upstream energy policy and commercial-political relations in energy to which this thesis will contribute.

**THE ARGUMENT: ENERGY SECURITY RISK, POLITICAL RISK AND POLITICO-ECONOMIC COOPERATION IN UPSTREAM ENERGY**

This thesis argues that EU oil and gas policy in the Caspian upstream presents a broadly overlooked and largely more internally convergent sphere of EU external energy policy than might be expected when considering the generally discordant nature of EU external energy relations. In particular, while encapsulating a range of issues, the EU’s upstream oil and gas cooperation in the Caspian is relatively cohesive because it revolves around a core set of policies and practices concerned with the mitigation of risk, and *political risk* in particular, that serve both European commercial and energy security objectives.
Political risk refers to the “probability of disruption of the operations of multinational enterprises by political forces or events” (Multilateral Guarantee Investment Agency, 2010, p.28) and represents a core concern for commercial energy actors. However, despite calls for more attention to risk and risk management in the study of European energy politics (Güllner, 2008, p.150), questions of political risk feature relatively little in academic discussions of EU external energy policy. However, political risk, and the EU’s response to it, is central to understanding the cooperation between European actors in the Caspian upstream. This is for several reasons, discussed throughout this thesis and outlined below.

Firstly, as described in chapter four, the EU’s model of energy supply, which relies on commercial companies for investment in and delivery of energy, means that political risks to companies overlap with energy security risks for member states and the European Union more broadly. In turn, the link between energy security risk and political risk creates a strong overlap between EU energy diplomacy and EU commercial diplomacy (especially reactive ‘problem-solving’ diplomacy). This diplomacy in turn also highlights the overlap between a number of the EU’s different foreign policy roles, most notably in trade and market promotion, security promotion and diplomacy (Smith, 2012a, p.705-10). As Smith has argued (2012, p.701-3), the politics of European external relations has often revolved around efforts to integrate and accommodate these (sometimes conflicting) EU foreign policy roles and structures. The overlap between these areas in energy policy is particularly pertinent at an EU level following the boosting of European competence for security of energy supply and foreign investment in the Lisbon Treaty.

Secondly, as will be described further in chapter four, there is a broad overlap in perceptions of the security challenges of the Caspian context (and the risks therein)

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4 A fact that is surprising given the attention placed on energy risks in other parts of the energy policy literature (Kennedy & Nurmakov, 2010; Domjan & Stone, 2010; Bremmer & Johnston, 2009).
5 Indeed, the ‘good governance’ and environmental elements of the EU’s action in the Caspian (discussed in chapter five) also highlight an element of the normative in EU upstream energy policy (Smith, 2012a, p.210).
between commercial, member state and EU institutional actors that underpins EU cooperation in upstream oil and gas policy in the Caspian.

Third, the EU's upstream oil and gas policies are in large part (albeit by no means exclusively) designed to effect structural changes in the wider European milieu so as to mitigate market distortions and upstream political risk. EU policy does this both in a proactive sense, seeking to promote governance and policies that offset risks before they happen, and in a reactive sense, responding diplomatically to extant risks as they occur. Indeed, this risk mitigation objective is one of the core factors linking the promotion of governance (broadly proactive) and energy diplomacy (both proactive and reactive). In addition, this wider risk-mitigating milieu-shaping function (discussed below) links together both the EU’s strategic diplomacy, designed to position the EU favourably in the international arena, and the EU’s structural foreign policy (and structural diplomacy within that) that seeks to shape the governance structures and processes of third party states (Hocking & Smith, 2011, p.38-40; Keukeleire, 2003).

Fourth, a combination of the EU liberal model of energy supply and the high level of political risk in the Caspian means that the EU and commercial actors are interdependent and mutually reliant on each other's resources in the Caspian region. This is especially the case given the strategic nature of the Caspian and the highly technically complex operating environment that the region presents.

Fifth, the EU is seen as an advantageous level for energy diplomacy in the region by both companies and member states. Member states support a strong energy diplomacy role for the EU in the Caspian as they see EU cooperation as a way to enact great political influence in a politically-challenging region. Likewise, companies support a strong EU role as they see EU actors as an alternative source of political support that can be more effective than member state support alone. Furthermore, for both companies and member states, the EU is seen to be a more 'neutral' actor in the region (compared with individual member
states), useful when member states want to deliver a politically difficult message or when association with a member state can be politically disadvantageous for a company.

Sixth, in the Caspian upstream, fear of Russian and Chinese regional aspirations spur Caspian states to pursue multi-vector foreign policies that provide structural openings for European actors. In turn, common upstream challenges, similar perceptions of risk and the nature of the upstream industry in the Caspian foster the kind of intra-European unity that allows the EU to overcome differences and perform its upstream energy role in the region.

Taken together, these factors support a higher level of intra-EU energy cooperation and convergence than is typically witnessed in EU foreign energy policy.

**Theoretical approach**

In addition to the empirical arguments outlined above, this thesis aims to make a theoretical contribution to the EU external energy literature. At present, the literature on EU foreign energy policy cooperation is, relatively speaking, under-theorised. Indeed, most of the conceptual analysis of EU external energy policy explains *failures of policy* (i.e. an absence of cooperation) and does not present the forms of politico-economic analysis needed for the type of investigation conducted in this thesis. There are two major reasons for these theoretical gaps in the existing literature.

Firstly, the literature on EU energy policy has largely focused on explaining areas of intra-EU discord rather than cooperation (Schmidt-Felzmann, 2008; 2011; Bozhilova & Hashimoto, 2010; Westphal, 2006; McGowan, 2008; Youngs, 2007; 2009). As such this literature mirrors wider discussions on the diversity of interests held by EU member states and the challenges this presents in developing a common EU foreign policy (Hill, 1998). While this is unsurprising given the tensions witnessed in EU foreign energy policy, it means that the theorisation of occasions when EU institutions, member states and energy companies *do interact cooperatively* has been somewhat overlooked.
Secondly, parts of the conceptual EU external energy relations literature have mirrored wider divisions in energy policy studies between pessimistic-realist and rational-liberal analysis and, as a result, have tended not to focus on the interaction between commercial and political actors (see for example, Luft & Korin, 2009; Chester, 2010; Grant, 2008; Taylor & Van Doren, 2008; Noël, 2008). Indeed, as Keating, Kuzemko, Belyi and Golthau (2012, p.2) have argued “contemporary analysis on energy and energy governance rarely departs from traditional realist/geo-political or liberal/neo-liberal approaches”. As discussed in chapter two, these approaches tend to represent an ontological reification of the respective effects of the political inter-state system and transnational markets in the analysis of energy. These approaches see either inter-state or economic structures/actors as causally predominant in determining energy outcomes, rather than conceptualising their interaction. Significant sections of the literature on EU foreign energy policy have either explicitly or implicitly reflected this realist-liberal divide (Youngs, 2009; Westphal, 2006; Finon & Locatelli, 2008; Correljé & van der Linde, 2006). As a result, they fail to fully “explore the potential interrelationships [between political and economic structures and actors] that are in fact crucial for understanding the dynamics of energy governance” (Keating et al, 2012, p.3). Theoretical models capable of analysing the EU’s various security, market and diplomatic roles in external energy policy are thus lacking in the conceptual literature.

Indeed, as Watson (2012, p.viii) and Keating et al (2012, p.2-3) have argued, the wider energy policy literature has been slow to build on the extensive analysis of politico-economic interaction in International Political Economy (IPE). As such, they call for a systematic breaking down of the barriers between economic and political analysis in energy (Watson, 2012, p.viii; Keating et al, 2012, p.2-3). This thesis seeks to build on these observations and draw on the IPE (as well as other IR, EU foreign policy and public policy) literature to develop coherent politico-economic theoretical frameworks useful for the analysis of European upstream politico-commercial cooperation in the Caspian.
An eclectic IPE approach

As White (2004, p.23) and Ginsberg (2001, p.21) have noted, European foreign policy (EFP) rarely lends itself well to analysis through a single theory. Indeed, despite the limitations of interparadigmatic research in terms of theoretical parsimony, White (2004, p.23) suggests that an eclectic approach to European foreign policy theory-building “is positively desirable”. Likewise, as mentioned above, a number of scholars have identified the inherent conceptual complexity involved in studying energy policy and the consequent need for theoretical eclecticism to comprehend its economic, commercial and political dimensions (Strange, 1988; Keating et al, 2012).

Correspondingly, this thesis employs an eclectic mix of heuristic theoretical models derived from the literatures on IPE/IR (Strange, 1988; Goel, 2004, Cox, 1986; Wolfers, 1962) European foreign policy/external relations (Smith 2004; Hocking, 2004a; 2004b; Hyde-Price, 2008; Keukeleire, 2003; Hill, 1998) and Public Policy (Eising, 2009; Bouwen, 2002). The incorporation of these various theoretical ideas is designed to aid explanation of:

1) The structural operating conditions facing EU actors in the Caspian;
2) The EU's upstream energy objectives and role; and.
3) The cooperation between EU institutions, member states and private commercial energy actors.

The three models, detailed further in chapter two, are outlined briefly here:

1) The structural operating conditions of the Caspian: Territorial non-coincidence, heterogeneity and energy interdependence. This first model employs a number of concepts to help explain the structural upstream energy challenges facing European actors in the Caspian. One of the major challenges for political and commercial actors operating in foreign markets is what Murray (1971, p.85) has referred to as “territorial non-
coincidence”. Territorial non-coincidence refers to the heterogeneous differences in regulation, commercial rights, norms and governance practices found across state boundaries (Murray, 1971, p.85). Transnationally-operating European energy actors, on which the EU collectively relies for energy supply, are negatively impacted by forms of energy governance that challenge their business operations. However, territorial (governance) non-coincidence across regions is underpinned and shaped by the broader politico-economic differences between states and the nature of their interdependence.

Indeed, the states of the Caspian region exhibit very different politico-economic structures to those found in Europe and these different state structures in turn necessitate alternate energy regulatory models and practices (Kaveshnikov, 2010, p.598). In this context, the European Commission argues (2008a, p.7) that the “widely-varying interests of countries in the energy field, in a context of increasing energy interdependence, point to the need for more robust international legal frameworks based on a balance of commitments and benefits”. However, interdependence can induce discord as well as cooperation (Keohane, 1984, p.5-6; Keohane & Nye, 1989, p.10). As will be discussed further in chapter two, rather than foster collaboration, the nature of energy interdependence between Europe and the states of the former Soviet Union (based on westward flows of natural resources and eastward flows of capital) can serve to further and deepen this heterogeneity of politico-economic and regulatory structures. Indeed, it does so by stimulating the kind of resource development (and resource curse effects in particular), that underpin Caspian states’ authoritarian and centralised state structures and corresponding regulatory models in oil and gas (the pre-eminent domestic economic sectors) that serve these structures. The EU has a clear interest in reducing this heterogeneity (at both the state and the regulatory level) and the risks it presents, but at the same time, this involves seeking to challenge fundamental politico-economic structures in Caspian states and the regulatory structures they underpin. As Zielonka (2006, p.105-112) argues EU external relations are designed to respond to this form of “cross-border interdependence
challenge” through the promotion and outward extension of EU governance (see also Lavenex, 2004). However doing so can cause tensions, especially as Caspian states are increasingly keen to use their new found sovereignty and economic wealth to strengthen such structures (see chapters four and seven).

2) The EU’s upstream energy objectives and role: Milieu-shaping. This second model seeks to conceptualise the EU’s upstream role and objectives in the Caspian. It is suggested that, in the context of the territorial non-coincidence and precipitant risk discussed above, the EU’s upstream oil and gas policy efforts represent a case of EU milieu-shaping in line with both European energy security and commercial energy prerogatives (Hyde-Price, 2008, p.32; Wolfers, 1962; Smith, 2004; Keukeleire, 2003, p.47). As Hyde-Price (2008, p.31) argues, regional powers have “an interest in shaping a benign international environment favourable to their first-order interests (primarily associated with their security and prosperity)”. Hyde-Price notes that the EU presents an instrument for the collective promotion of member states’ economic and security interests in the global economy and, more specifically in the context of this thesis, serves “as an instrument for collectively shaping the regional milieu” in line with these security and economic objectives (Hyde-Price, 2008, p.31). Similarly, Keukeleire (2003, p.47) argues that the EU operates a form of “structural foreign policy” (and within that structural diplomacy) whereby it seeks to promote “a more favourable international environment by pursuing and supporting long-term structural changes, both in the internal situation of the country concerned and the interstate relations and general situation of the region”.

However, this analysis of milieu-shaping and structural foreign policy are complemented in the context of EU external oil and gas policy and political risk mitigation by neo-marxist/structuralist notions of “making the world safe for capital”, especially in terms of the promotion of “state economic functions” (SEF) - such as market opening, market-facilitating regulation and the international safeguarding of property rights – all essential
to the effective operations of the oil and gas industry on which the EU relies (Smith, 2004, p.81; Murray, 1971). While this promotion of state economic functions in the EU context is usually carried out by member state governments, as Smith (2004, p.80) points out, they can be also performed by other political authorities such as the EU.

3) European upstream energy cooperation: POLITICO-commercial bargains, catalytic diplomacy and resource interdependence. This third model seeks to help conceptualise the interaction between European political and commercial actors in the Caspian upstream. To do so it employs Strange’s (1988; see also Goel, 2004) notion of a politico-commercial “bargain” alongside the concepts of resource dependency (Eising, 2009) and catalytic diplomacy (Hocking, 2004a; 2004b). Strange (1988, p.42) argues that one of the core purposes of enquiry in IPE is to “find the balance of interest and power that allows a working set of bargains to be hammered out and observed [emphasis added]”. The international oil and gas business, she argues, is a “particularly complex cat’s cradle of interlocking bargains” (Strange, 1988, p.41). Such a view is concordant with Hocking’s (2004a, p. 100) notion of “catalytic diplomacy” where state and non-state actors’ “interlinked autonomy and resource dilemmas” sees them seeking to “maximise their freedom for action in the pursuit of policy goals whilst devising strategies [with other actors] to compensate for resource deficiencies” (see also Hocking & Smith, 2011). It is suggested that this particular interlocking politico-commercial bargain and the catalytic diplomacy it presents can be analysed effectively through an examination of resource (inter)dependency (Eising, 2009) and the respective political, financial, production and knowledge-based resource contributions each actor provides in Caspian states. European political and commercial actors all possess certain resources that they deploy in the Caspian. No actor or set of actors can achieve all of their respective objectives without benefitting from the resources that others possess (Hocking, 2004b, p.151). Examining the relative resource contributions that each set of actors brings to the Caspian upstream
context allows one to understand the nature of the interdependence between European actors in the region.

RESEARCH AIMS AND QUESTIONS

The overall objective of this study is to contribute to knowledge of European upstream energy policy and cooperation in the Caspian Sea region.

To recapitulate, the overall research question for this research is:

*How cooperative are relations between the externally-operating EU institutions, EU member states and European commercial energy actors in the Caspian upstream?*

Specifically, the research has three major aims:

1. To examine the EU’s broader foreign energy policy role, governance objectives and diplomatic practices in the Caspian upstream and to evaluate how these actions fit within the EU’s wider foreign oil and gas strategy;

2. To analyse cooperation and interaction between externally-operating EU institutions, member states and companies on Caspian upstream oil and gas policy; and

3. To develop/merge a set of theoretical frameworks capable of explaining both the EU’s upstream objectives and role and intra-EU cooperation in the Caspian.

These aims lead to the following research questions:

1. What is the EU’s energy role in the Caspian upstream?

2. How much do EU institution, member state and energy company perspectives of energy risk in the upstream overlap (and why)?

3. What are the objectives of EU upstream oil and gas policy in the Caspian?

4. How much do EU institution, member state and energy company perspectives of upstream energy policy overlap (and why)?
5. What role do the externally-operating EU institutions (Commission and EEAS) play in energy diplomacy in the Caspian?

6. How does the resource interdependence between European actors in the Caspian upstream contribute to cooperation?

7. Which theoretical concepts from the political science literature can be employed/merged/developed to help explain European cooperation in the Caspian upstream?

CHAPTER OVERVIEW

This thesis is divided into seven chapters and a concluding chapter. The remaining sections of this first, introductory chapter present a research background to the study. Chapter two is the core theoretical chapter. It sets out the shortcomings of current conceptual approaches to understanding cooperation in European energy politics and outlines an alternative politico-economic ontology. Having done so, this chapter then outlines the conceptual models described above in greater depth. The third chapter details the research methods used in the thesis discussing internal validity and the transferability of the research, as well as the research collection and data analysis methods.

Chapters four and five analyse the EU’s risk-mitigating role and specific objectives in the Caspian. Specifically, chapter four places the EU’s upstream oil and gas policies within the context of the EU’s broader external energy risk mitigation strategy and that of political risk mitigation in particular. It highlights the dependence of the EU on the commercial energy sector and suggests how, through both energy governance and diplomacy, the EU seeks to shape the regional milieu so as to facilitate the commercial actions of European/Western energy businesses as a whole. Chapter five outlines the character and specific risk-mitigating objectives of the EU’s energy governance policy in the Caspian highlighting its promotion of risk-mitigating liberal state economic functions, as opposed to proprietorial state economic functions promoted by Caspian states (Mommer, 2000).
This chapter outlines in detail the specific institutional and normative elements of EU policy and the risk-reducing state economic functions that the EU seeks to ensure in the region.

Chapter six focuses on the EU’s risk-mitigating energy diplomacy in the Caspian. It discusses the link between energy diplomacy and commercial diplomacy, highlights EU diplomatic practice in the Caspian and examines energy company and member state perspectives of this EU diplomatic role. Likewise, this chapter also discusses some of the tensions that exist between the different roles of the EEAS and Commission in the prevision of energy diplomacy and some of the tensions between companies’ promotion of their specific interests and the EU’s desires to support the general European interest in energy.

Chapter seven, the final empirical chapter, focuses predominantly on Kazakhstan. As a major energy exporter with one of the highest regional levels of foreign investment in the oil and gas sector (and having experienced a greater level of major power involvement than any other country in the Caspian region), Kazakhstan represents an ideal case to examine the cooperation between European actors in the Caspian upstream. This chapter traces the different challenges facing European actors in Kazakhstan (as well as other Caspian states) and outlines the different politico-security, financial, productive and knowledge-based resources that different actors are able to employ to counter these challenges. It stresses how European political and commercial actors rely on, and benefit from, resources under the control of other European actors and how none of these actors are able to fully achieve their respective objectives alone. In doing so, this chapter sets out the degree of resource interdependence between European actors in the Caspian and highlights how this underpins intra-European cooperation in the region. Chapter eight will conclude with a discussion of the major research contributions offered and present some critical reflections on the thesis.
RESEARCH CONTEXT: A REVIEW OF RELEVANT THEMES IN THE LITERATURE

To set the context for the research to follow, this section presents a review of relevant themes in the energy policy and post-Soviet studies literatures. Firstly, the difficulties the EU has encountered in its attempts to formulate a common foreign energy policy are examined. The second section turns attention to the Caspian, outlining three energy related phenomena - rentierism, resource nationalism, and regional energy competition - that feature in the political economies of Caspian producer states and shape the structural conditions for European actors who operate there. The third section considers the current literature on upstream EU energy policy in the Caspian noting that, while this literature highlights a number of important issues, it is largely prospective, presenting little detailed empirical analysis of upstream dynamics. Finally, this review discusses politico-commercial relations in foreign energy policy in both the US and Europe, noting how the literature on these relationships in the context of European energy policy is underdeveloped at present.

The persistent difficulties of forming a coherent EU energy policy: A hesitation to cede sovereignty in a strategic area

Despite the greater salience of energy relations on the European foreign policy agenda since the mid-2000s, the development of an EU level energy policy has been a difficult process (Buchan, 2009; Schmidt-Felzmann, 2011; Youngs, 2009). One of the major themes of the literature on EU foreign energy policy is the incoherence between member states and institutions and the consequent failure to ‘speak with one voice’ on energy matters, particularly in the context of EU-Russia relations. In general this literature is animated by a paradox – why when the EU faces so many external energy challenges (most notably relating to energy dependence on Russia) have member states not managed to formulate a cooperative response?
These difficulties mirror a much broader trend in EU foreign policy where the EU is seen to be unable to fully coordinate its foreign policy despite the apparent rational benefits of doing so – especially towards Russia. Braghiroli and Carta (2009, p.2) describe EU-Russia energy relations as “emblematic case that puts into question the EU’s foreign policy coherence and normative distinctiveness”. Likewise, Claes (2009, p.58) exemplifies the EU’s predicament when he stresses that the EU would be in “a stronger and better position if the member states subsume to a unified strategy. This is so far not the case towards its most important external energy supplier at the moment - Russia”. Schmidt-Felzmann (2008, p.170) cites former EU Trade Commissioner Peter Mandelson as noting “the incoherence of European policy towards Russia over much of the past decade has been frankly alarming”.

EU member states, it is argued, “oscillate between neo-institutionalist and neorealist temptations in their relations with Russia” with national capitals simultaneously seeking to engage Russia in regional, rules-based institutions whilst attempting to pursue their national interests bilaterally (Braghiroli & Carta, 2009, p.2). While the EU had less difficulty formulating a common position towards Russia in the 1990s, coalescing around a strategy of democratisation and Westernisation in a weakened Russia, this plan, it is argued, is no longer viable (Leonard & Popescu, 2007, p.1; Barysch, 2007, p.4). Schmidt-Felzmann (2008, p.172) suggests that European countries attempt to ‘upload’ their own strategic policy preferences and bilateral disputes with Russia to the European level when it is in their interests to do so, whilst at the same time those that can (predominantly the larger member states) also pursue their relations with Russia bilaterally, outside of EU forums. While ‘uploads’ are often couched in the language of the European interest,
Schmidt-Felzmann (2008, p.172) argues there is "no real indication that a concern for the 'common EU good' is driving their national foreign policies".

Scholars have highlighted divisions between 'new' and 'old' member states with regards to Russia (Braghiroli & Carta, 2009; Leonard & Popescu, 2007). Old member states tend to perceive of their energy dependence on Russia in relative terms, seeing energy trade dependence on Russia as a positive part of mutual interdependence (Braghiroli & Carta, 2009, p.6). By contrast, Braghiroli and Carta argue that “new [member states] still perceive the absolute dependence on the exchanges with Russia as a form of 'dominance' (further complicated by the claim that Moscow pursues a form of unilateral coercive politics)” (Braghiroli & Carta, 2009, p.6).

In the downstream, divisions have also been manifest in member states' approaches to the European Commission's energy market liberalisation agenda that seeks to open European markets to competition and break-up large incumbent 'national champion' companies (McGowan, 2008, p.90; Youngs, 2009, p.33). As McGowan asserts, for "defenders of the status-quo … maintaining powerful integrated [energy company] incumbents provides, amongst other things, the best basis for negotiations with third party countries and for ensuring secure supply" (2008, p.90). Youngs (2009, p.34) refers to three different positions that member states have adopted on this issue. One set, exemplified by Germany, is reluctant to cede sovereignty and sees bilateral deals as the best way to secure its energy interests. Another set, exemplified by the UK, argues that free markets at home and market liberalisation abroad are the most suitable approach to manage energy security – concurring broadly with the European Commission. A third strand, approximating to the French position, argues against both of these approaches, asserting that political issues

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6 Barysch notes how (former) European leaders such as President Berlusconi, President Chirac and Chancellor Shröder were happy to forego common EU positions in favour of preferential bilateral deals with Russia (2007, p.2). Despite a more pragmatic approach to Russia and greater consultation with Central and Eastern European member states, Barysch argues that Angela Merkel maintains very close relations with Russia and has continued with the Nord Stream pipeline (see below) against the wishes of a number of other member states (2007, p.2).
should be taken into account but, for that reason, energy security should be handled at a European level (but not necessarily liberalised along Commission lines) (Youngs, 2009, p.34).

Perhaps unsurprisingly given the divisions noted above, member states have frequently undermined the Commission's efforts at internal energy liberalisation. Member states have resisted the Commission's efforts to break-up national monopolies. In the case of a merger between French companies Suez and Gaz de France, former President Sarkozy supported unification of the two companies, helping to create rather than dismantle a 'national champion' (Youngs, 2009, p.35; Buchan, 2007, p.38). Both the Spanish and French governments have protected national companies from foreign take over (by French and Italian companies respectively) (Buchan, 2007, p.38-42). Member states also differed on the place of reciprocity in relations with foreign suppliers. A number of member states (predominantly those with 'national champions' i.e. France, Italy and Germany) have argued that access to European markets should only be given to foreign companies when access was equally granted upstream to European companies. Others such as the UK argued this was “a protectionist pretext” and that it was in the EU's interest to permit downstream investment by energy suppliers as this would deepen dependence and strengthen energy security (Youngs, 2007, p.41).

In the mid-stream, divisions between member states have also been evident over the various pipeline routes (actual and potential) that bring energy supplies to Europe (Götz, 2008; Schmidt-Felzmann, 2011; Feklyunina, 2008; Braghiroli & Carta, 2009). Three major pipeline projects have triggered most of the controversy. Nord Stream and South Stream (both supported by Russia with partnership from a number of EU member states) and Nabucco, (supported by the EU institutions and, at least rhetorically, by member states) have served to highlight EU energy policy divisions at perhaps their most strident (see fig.

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7 As well as a useful typology of member state positions, this analysis by Youngs also draws attention to the divisions between 'the big three' member states.
The Nord Stream pipeline, backed by Russia and Germany (but also with the participation of France and Denmark), brings gas from Russia via the Baltic Sea to Germany (and on to France, Denmark and the UK amongst others). Nord Stream is viewed by some Central and Eastern European states (particularly Poland and Estonia) as a means for Russia to be able to increase pressure on them without damaging its main consumer base in Europe⁸ (Schmidt-Felzmann, 2011b, p.585). Götz (2008, p.94) argues that Nord Steam (and South Stream) follows an emerging Russian strategic logic (supported by France and Germany) of avoiding difficult transit states, most notably Ukraine. While some Eastern member states argue that Russian pipeline routes are designed to circumvent their territory, Moscow in turn accuses the EU of trying to build pipelines, such as Nabucco, that avoid Russia (Götz, 2008, p.93). Part of the problem lies in the fact that dependency on Russia is higher in Eastern than Western Europe. Indeed, in Western and Southern EU states, such as Italy and France, dependence on Russia is not a major preoccupation as levels are low. For them, increasing reliance on Russia in fact reduces dependence on other (perhaps riskier) suppliers such as Algeria or Libya.

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⁸ Polish Foreign Minister Sikorski even referred to the agreement between Russia and Germany to build Nord Stream as a “new Molotov-Ribbentrop pact” (Schmidt-Felzmann, 2011, p.587).

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*Fig. 1: Pipeline routes in north and south-east Europe. Source: BBC (2011)*

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However aside from political complaints, Poland and other EU transit countries also have economic motivations for opposing Nord Stream. The construction of Nord Stream entails lower volumes of gas crossing Poland, costing the country valuable transit fees. In addition, future expansion of transit capacity through these countries, including extensions to the Yamal pipeline from Russia, is now unlikely to be built\(^9\) (Schmidt-Felzmann, 2011, p.587). It appears that economic motives and political relations with Russia underline decisions of both proponents and opponents of the pipeline. As Schmidt-Felzmann, argues (2011, p.589) “all interested parties appear to be predominantly focused on securing their national interests, with little or no regard for other member states’ economic, political and security situation”.

In the south-east of Europe, several pipeline projects have been locked in (seeming) competition for several years (see fig 1 above). Firstly, the Russian-backed South Stream would, if built, bring Central Asian and Russian gas across the Black Sea from Russia into Bulgaria (Alexeev, 2013). Further south, a number of pipelines including the EU-backed Nabucco ‘west’, the Trans-Adriatic Pipeline (TAP), White Stream and the Interconnector-Turkey-Greece-Italy (ITGI) have competed to bring gas from the Caspian (and potentially Central Asia and the Middle East) to Europe. The Trans-Adriatic Pipeline appears to have recently beaten main rival Nabucco in competition for access to the Azeri gas essential for the project (Bryza & Koranyi, 2013). Again as with Nord Stream, member states’ support for various pipelines routes appear conditioned by perceptions of relations with Moscow, whether they are located on the pipeline route and the involvement of national companies\(^10\) (Schmidt-Felzmann, 2011, p.587).

Indeed, participation of a national company often precipitates support for pipelines. Denmark granted approval for Nord Stream following announcement of Danish energy

\(^9\) Likewise, an ‘amber pipeline’ set to go from Russia to Poland via the Baltic States and Kaliningrad is now also unlikely to be constructed (Schmidt-Felzmann, 2011, p.587).

\(^10\) However, a number of countries (Austria, Bulgaria and Hungary) have at different times offered support for both projects, hedging their risks in case only one is built.
company DONG’s agreement to double contracted supplies through the pipeline (Schmidt-Felzmann, 2011, p.588). Similarly, the French Government announced the sale of four French assault warships to Russia in conjunction with Gas de France’s signing of a bilateral energy agreement with Russia and the acquisition of a nine percent share in the Nord Stream consortium (Schmidt-Felzmann, 2011, p.588).

Many claim that it is only by adopting a ‘spirit of solidarity’ that the EU can overcome the cooperation problems discussed above (Gros, 2008; Swieboda, 2008). Swieboda (2008, p.40) argues that member states’ “Sinatra strategy” of “do it my way” is at the root of “today’s inability to build a strong and coherent European energy policy”. Without correcting this situation, he stresses “Europe will never be able to bargain with Russia from a position of strength” (Swieboda, 2008, p.40). The answer, Swieboda contends, lies in greater EU-level investment on strategic infrastructures (Swieboda, 2008, p.40). Gros (2008, p.80) concurs, highlighting that the benefits of new infrastructures are likely to be unevenly distributed amongst EU member states and therefore no single commercial gas distributor would build them, as they would be unlikely to reap all the benefits from doing so. This, he stresses, is a classic case for EU intervention to overcome this barrier to commercial cooperation11 (Gros, 2008, p.80).

Bartuska (2008, p.57) argues that it is more responsibility, rather than solidarity, that is needed on the part of the Russia-dependent Eastern-European states. Bartuska stresses that when “someone tells you Europe can achieve its energy security primarily through solidarity, beware” (2008, p.57). He suggests that a number of Eastern and Central European countries have not done enough to reduce their dependence on Russia since the collapse of the USSR. Bartuska argues that these countries only realised their dependence

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11 There is to a certain extent a circular argument to Gros (2008) and Swieboda’s (2008) cases. Both argue that EU level action could overcome member state cooperation issues, build necessary infrastructures and thus develop intra-EU solidarity in energy. Yet member state solidarity is necessary to get agreement on the funding and building of these infrastructures and it is lack of this solidarity that is cited as being responsible for the failure to develop them so far (Swieboda, 2008, p.40).
after the gas crisis of 2006 and that calling for EU solidarity represented the cheapest and fastest option of remedying their vulnerability (Bartuska, 2008, p.57). Schmidt-Felzmann (2011, p.593-4) argues that the notion of solidarity furthers the interests of the European Commission in its efforts to gain further competences in EU external energy policy, with ‘solidarity’ serving as a justification for greater cooperation and coordination at an EU level, including the transfer of additional responsibilities to the Commission (Schmidt-Felzmann, 2011, p.593-4).

Similarly, Youngs (2009, p.40) draws attention to tensions inside EU institutions. He notes that the European Council and Commission have regularly been in conflict over the contours of the EU’s foreign energy policy. Youngs suggests (2009, p.40) that Former High Representative for Foreign and Security Policy Javier Solana’s public rhetoric on energy policy was far more political than his Commission colleagues and highlights the fact that senior figures in the Council Secretariat had misgivings about the Commission’s liberalisation agenda in energy. Youngs also highlights (2009, p.41) how some argue the European Commission instrumentally promotes a liberal approach to energy because doing so fits with policy areas where the Commission already has competences (for example, competition, internal market, trade). Youngs notes that while some policy makers across the EU felt that energy policy making had dangerously slipped into the hands of “national security strategists” others opined that the Commission (and Directorate General Transport and Energy in particular – now DG Energy) was an “‘energy technocracy’, whose market-based recipes were blind to geo-political realities” (Youngs, 2009, p.41). It seems that similar arguments over whether foreign affairs ministries or energy/economic ministries should control energy policy were also held within member states (Youngs, 2009, p.39).

Overall, the literature on EU energy policy presents a generally discordant picture of EU energy cooperation. EU member states have found it very difficult to form an agreement
on the multiple policy areas needed to establish a common energy policy. Competing commercial interests, different relations with Russia, different approaches to internal liberalisation and pipeline routes and a failure to achieve solidarity between member states have all played a role in challenging the development of a common European-level energy policy.

Having outlined the intra-EU difficulties that the EU has faced in energy policy, attention is now turned to the multiple politico-economic challenges that the Caspian region presents as an area of energy interest for the EU. This next section prepares the ground for the analysis of EU upstream policy in the Caspian to come by reviewing the literature on the structural conditions that European actors face in the region and the role that energy plays in shaping them.

The multiple challenges of the Caspian: Post-Soviet rentierism, resource nationalism and regional competition

The countries of the Caspian region are home to considerable hydrocarbon wealth. Kazakhstan is the second biggest oil producer in the former Soviet Union (FSU) after Russia with oil reserves of 30 billion barrels and gas reserves of 85 trillion cubic feet (EIA, 2012a). Azerbaijan has more modest, yet nonetheless sizeable, reserves estimated at seven billion barrels of oil and 30 trillion cubic feet of gas (EIA, 2012b). Turkmenistan has the sixth largest gas reserves in the world at 265 trillion cubic feet (EIA, 2012c). However, despite this energy promise, the countries of the Caspian region are afflicted by a number of energy-related phenomena that shape their regime dynamics and political behaviour and present challenges for the European actors who operate there. These include the resource curse and neo-patrimonial rentierism (Franke, Gawrich & Alakbarov, 2009; Ostrowski, 2011; Meissner, 2010; Gawrich, Melnykovska, & Schweickert, 2010; Kendall-Taylor, 2012), varying degrees of resource nationalism (Domjan & Stone, 2010; Kennedy,
This section examines literatures associated with each of these issues. Central to all of these literatures is the relationship between these countries’ resource abundance and their political context. As Overland, Kendall-Taylor & Kjaernet (2010, p.3) assert, the energy producer states of the Caspian region are heavily dependent on the income from oil and gas and their “political systems are formed by this dependence” (Overland, Kendall-Taylor & Kjaernet, 2010, p.3). Indeed, scholars assert that the key to understanding the regimes in the regions lies in recognising the interaction between resource incomes, resource policies, elite structures and political institutions (Franke et al, 2009, p.109). Ostrowski (2011, p.2) argues that hydrocarbon revenues impact heavily on core aspects of Caspian statehood ranging from their domestic political structures, relations with foreign powers to Caspian states’ sovereignty itself.

*The resource curse and rentierism*

One of the dominant themes in the literature on Caspian regimes focuses on the resource curse (Meissner, 2010). Generally speaking, the resource curse refers to the paradox of why resource abundance often does not translate into socio-political and economic development in resource-rich countries (Arzeki & Nabli, 2012; Sachs & Warner, 1995; Ross, 2001; 2012; Collier, 2010; Basedau & Lay, 2011). Despite being often seen as a ‘blessing’, if poorly managed, resource wealth can have a number of negative effects including the stunting of economic growth, especially inclusive economic growth (Arzeki & Nabli, 2012) and economic output (Collier, 2010, p.41) as well as the impedance of democratic transition, political stability and the development of well-governed institutions (Meissner, 2010). The resource curse is widely thought to afflict the three Caspian countries under investigation here (Franke et al, 2009; Meissner, 2010; Ostrowski, 2011). However, two additional variables of the resource curse - rentierism and neo-
patrimonialism - are thought to create a particular form of post-Soviet resource curse in the Caspian region. Franke et al. (2009) encapsulate these notions in the concept of the “post-Soviet rentier state” (PSRS\textsuperscript{12}) that captures the intersection of both rentierism and the post-Soviet legacy of neo-patrimonialism.

The concept of rentierism, long-applied to countries in the Middle East and North Africa, is an important part of the broader explanation of the resource curse (Meissner, 2010, p.9). It refers to the fact that elites in resource rich states often rely politically on rents from the export of valuable commodities such as oil and gas (Gawrich et al., 2010, p.4). This situation is thought to have a number of negative effects. Firstly, capturing rents in this manner gives regimes a high degree of autonomy from their societies and means that they face less pressure to consider the demands of their citizens than would be the case in states that rely on tax for revenue (Gawrich et al., 2010). Secondly, elites in rentier states are endowed with a great degree of power as the means of productive economic capacity and consequent resource rents accrue directly to them and they decide how they are distributed. Karl (1997, p.197) notes that all rentier states demonstrate the same pattern of “maximising the external extraction of rents for subsequent distribution through public spending according to a political logic”. Thirdly, the nature of resource distribution provides much room for cronyism and rentier states are correspondingly often characterised by patron-client structures, high levels of corruption and nepotism (Gawrich et al., 2010, p.5). Legitimacy and mass support are ‘bought’ from populations at large through wide-spread public spending (and often large state sectors). Indeed, while Caspian producer states have a high degree of autonomy from society, their authoritarianism means that they are ultimately dependent on economic revenues from

\textsuperscript{12} Franke et al. (2009) argue that PSRS exhibit a number of characteristics that correspond to the different rentier and neo-patrimonial aspects of the PSRS model outlined below: 1) elite power in oil and gas contract conclusions (concentrated around the president); 2) permanent, corrupt and rent-seeking elites; 3) legitimacy and support purchased through rent allocation by the elite; 4) deficits in the regulation of (formal political and) economic structures; 5) lack of transparency; and 6) medium levels of public legitimacy in relation to resource policy (Franke et al., 2009, p.133).
energy for popular legitimacy as well as the maintenance of elite patronage – the key tools (along with repressive institutions) of domestic control (Kendall-Taylor, 2012; Gawrich et al, 2010, p.5).

The importance of control over hydrocarbon rents for state sovereignty, regime stability and relations with foreign actors is stressed by scholars (see for example Ostrowski, 2011; Hienrich, 2010). Ostrowski (2011, p.12) argues that the "main preoccupation" of elites has been to maintain guaranteed access to rents so as to ensure state sovereignty and regime consolidation. He argues that "whoever guarantees a steady flow of rent is also seen as a strategic partner and the best guarantor of country's sovereignty" (as will be discussed in chapter seven this can include foreign companies) (Ostrowski, 2011, p.12). Control over the determination of property rights, a factor of considerable importance for foreign investors, is of core significance in this context as such rights determine who has and who controls access to resources and thus directly affects the determination of the role of the state in energy policy, the distribution of benefits from natural resources and the character of foreign investor involvement (Hienrich, 2010, p.7). As will be discussed in chapter four, property rights are deeply entwined with the notion of political risk and the EU’s responses to it.

In addition to rentierism, Gawrich et al (2010) argue that Caspian states can be defined as neo-patrimonial. Neo-patrimonialism refers to a mix of both formal and informal political structures in the maintenance of political control. Neo-patrimonial regimes rule through a combination of family, kinship and clan ties interwoven with more rational, business-based networks within the ‘strong-man’ controlled elite (Gawrich et al, 2010, p.13). Such a mix reflects, according to Fisun (2003, p.2), the “renewal, modification and rationalization of the [traditional] patrimonial systems of domination, but by no means to the establishment of Western-style rational-legal competitive democracy”. In this sense, the notion of neo-patrimonialism reflects both the blend of informal, traditional patrimonial
politics with modern, superficially-democratic institutional structures and the merging of traditional kinship-based elite groups with the business elites that connect broader elite structures to the global economy.

Such a situation is founded on two key facets of neo-patrimonialism, the ‘strong man’ figure and forms of systematic clientelism. All Caspian states demonstrate ‘strong man-centred’ elite structures where power is concentrated in the hand of one person surrounded by a relatively small coterie of elites – usually based on family, clan and/or business connections (Gawrich et al, 2010, p 13). In Caspian countries, the strong man president exercises power through a mix of their role in formal institutions and through informal clientelism (Franke et al, 2009, p.113; Gawrich et al, 2010, p.13). High natural resource rents concentrated in elite groups and ultimately controlled by presidents, provide the economic goods that make such clientelistic structures both possible and durable.

*Resource nationalism*

In addition to the effects of the rentierism and neo-patrimonialism, the Caspian region has borne witness to a rising trend of resource nationalism during the 2000s (Kennedy & Nurmakov, 2010; Domjan & Stone, 2010; Gojayev, 2010; Dzardanova, 2010; Bremmer & Johnston, 2009). Domjan and Stone (2010, p.38) state that resource nationalism refers to a “wide range of strategies that domestic elites employ in order to increase their control of natural resources”. There is a great deal of overlap between the notion of resource nationalism and the concept of political risk for companies (that encompasses similar behaviour such as expropriation and confiscatory tax changes) (Rubins & Kinsella, 2005, p.4). In a broad sense, one can see resource nationalism as a form of short hand for a large
number of the potential manifestations of political risk specific in the natural resources sector (discussed in chapter four)\textsuperscript{13}.

Most of the attention to resource nationalism in the Caspian is focused on Kazakhstan. This is due to a number of high-profile incidents where the Kazakh government is alleged to have used environmental and project development issues to put pressure on foreign investors and to forcibly wrest a greater share of key energy projects (Bremmer & Johnston, 2009, p.151; Hug, 2010, p.5). In addition to this, Kazakhstan has increased the role of the state in the natural resources sector in a number of other ways. Firstly the country has increased its revenue share from hydrocarbon exploitation through changes to the tax code and raised export duties. Secondly the country has increased regulation on foreign companies, particularly that concerning local content requirements (discussed in chapter seven). Thirdly, the country has made changes to laws that give the Kazakh state first right of refusal on the sale of strategic assets in the natural resources sector, reserved a larger role for the state-owned company KazMunaiGas in future projects and bargained with investors to gain a larger share of existing contracts (Kennedy & Nurmakov, 2010, p.3).

Domjan and Stone (2010, p.36) argue that Kazakhstan has adopted a form of economic rather than revolutionary resource nationalism designed to increase its stake in the energy industry and to get a greater portion of resource wealth for the country, rather than expel foreign companies completely. The actions of the Kazakh state have not radically altered the picture of foreign participation in the country, but rather have sought a greater share of resource wealth so as to boost economic growth and political legitimacy (Domjan &

\textsuperscript{13} As discussed further in chapter four, it should be noted that political risk also can derive from governmental omissions and from actions of non-state actors (Rubins & Kinsella, 2005, p.2-3) whereas resource nationalism is confined to deliberate state-led actions in the natural resources sector. Rubins and Kinsella do argue however that political risk is most commonly thought of as the “host state directly or indirectly confiscating, interfering with, or destroying all or a portion of an investor’s property rights” [emphasis added] (Rubins & Kinsella, 2005, p.3).
Hug (2010, p.3) attributes recent more assertive behaviour as being driven both by the 2008 financial crisis that affected Kazakhstan severely in the construction and banking sectors, and by a desire to redress contracts signed in the 1990s that were deemed to be unfair. Jones Luong (2010, p.2) argues that Kazakh resource nationalism should be seen as an attempt by President Nazarbayev to increase regime consolidation. She argues (2010, p.5) that Nazarbayev offered generous access to private actors in the 1990s to generate quick revenue and counter opposition forces. The country is now stronger and more stable and as such Nazarbayev is using greater resource wealth to solidify his position (Jones Luong, 2010, p.5).

Kennedy (2011, p.18-19) notes similar processes of privatisation in Kazakhstan and Azerbaijan in the 1990s but argues that while Azerbaijan has taken steps towards increasing the role of the state owned oil company SOCAR in future projects, it has not taken the same kind of resource nationalistic actions as Kazakhstan in relation to existing projects (see also Goyayev, 2010). Kennedy argues this is for a number of reasons. Firstly, Azerbaijan is at a much later stage of its oil development (with production expected to peak in the next decade) and consequently will increasingly rely on the high-end technology offered by Western companies (Kennedy, 2011, p.19-20). Secondly, Kennedy suggests that the main reason that Kazakhstan has demonstrated a greater recourse to resource nationalism lies in the country's multi-vector foreign policy (discussed in the next section below). He argues that while Azerbaijan has adopted a more Western-centric foreign policy, with relations between the state and foreign energy companies the bedrock of these broad strategic orientation, the Kazakh government employs a strategy of making Kazakhstan "important enough to major players in the region that they will avoid conflict [with Kazakhstan], without making Kazakhstan so dependent on any actor that it will lose autonomy in foreign policy or economic decision making" (Kennedy, 2011, p.22).
Resource nationalism in terms of relations with foreign companies does not at present play a particularly big role in the energy politics of Turkmenistan. This is not because Turkmenistan demonstrates stable models of energy governance but rather that the country is yet to permit large scale involvement from foreign energy companies in the country. Dzardanova (2010, p.4) notes how energy management in Turkmenistan is extremely centralised with President Berdymohamedov taking major decisions and personal relations with him being central to winning contracts. Nevertheless, Turkmenistan’s long-term need to attract investment and the very low presence of Western companies has meant that examples of resource nationalism are rare (or given the secrecy surrounding Turkmen energy politics, not publicly known) (Dzardanova, 2010, p.4). However, the extremely personalised management of the energy sector in the country presents ample scope for such political risks.

Regional competition and Caspian state agency

The Caspian region is often thought to be the site of fierce regional power competition between Russia, China, the USA and the EU (Manning & Jaffe, 1998; Karasac, 2002; Kalicki, 2001; Barylski, 1995). There is a general acceptance in the contemporary IR literature that, with the rise of China and resurgence of Russia, the international system is moving towards a more multi-polar direction with power shifting from Europe and the US to the “East” (Krastev, Leonard, Bechev, Kobzova, & Wilson, 2010, p.13; Grant, 2011; Buzan, 2011; Cox & Westad, 2011; Nye, 2011). The Caspian region, strategically important for all of its surrounding powers, is located at the intersection of a number of major poles of world power. Indeed, as Cooley (2012, p.11) has noted, Central Asia can be seen “as a window into this multi-polar world”.

From the European perspective, these processes are somewhat magnified by the relative decline of the United States. Long-term EU security and EU foreign policy have often rested on a US-ordered international system, or as Leonard (2011) has termed “a European-
inspired legal order inside the shell of the US security order”. Given Europe’s closer alignment with American rather than Russian and Chinese objectives, this relative weakening of the US combined with the US’s relative declining interest in Eurasia (a product of drawdown in Afghanistan, the “shale gas revolution” in the US and the US’s so-called ‘Asia-pivot’) hinders Europe’s attainment of its own goals in the shared neighbourhood with Russia and China. High oil prices (for Russia) and continuing economic growth in China have increased the material capabilities of these actors in their near abroad, while European and American capacities have, relatively speaking, stagnated.

However, the extent to which relations between regional powers in Eurasia represents a zero-sum “new great game” is disputed by scholars. Firstly, while all the major powers see more regional influence as preferable to less and thus compete in this sense, their major security interests in the region are not necessarily zero-sum (terrorism, Afghanistan etc.) and their relations have been characterised at times by cooperation, mutual enablement and emulation as well as political and economic competition (Collins & Wohlforth, 2003, p.292; Cooley, 2012, p.7-8; Weitz, 2006). Secondly, rather than mere pawns in this supposed ‘new great game’, the states of the Caspian region are often highly successful in balancing between the major powers that operate there. Unlike the original ‘Great Game’ where the Russian and the British Empires genuinely aspired to dominate and subjugate the region, today’s regional powers are seeking to influence other sovereign states (Cooley, 2012, p.5). Indeed, regional competition is frequently shaped by the foreign policy objectives of the smaller states in the region (Cooley, 2012, p.9). As will be described in chapter seven, this regional power-balancing behaviour and consequent room for manoeuvre available to Caspian states can present openings and increase opportunities in the region for the EU.

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14 As Cooley (2012, p.5) argues, these states can be “neither formally conquered nor dissolved by foreign powers [and] their sovereignty affords them a wide range of privileges and opportunities that their earlier counterparts lacked”.

A number of different concepts have been advanced to capture this balancing between regional powers. The notion of a “multi-vector foreign policy” is most often ascribed to Kazakhstan and is indeed the Kazakh government’s own description of its foreign policy practice (Yesdauletova, 2009, p.31). Hanks (2009, p.259) explains that Kazakh multi-vector foreign policy develops balanced “foreign relations through a framework based on a pragmatic, non-ideological foundation”. According to Hanks (2009, p.259) the character of partner states’ foreign or domestic policies “does not inform or direct the multi-vector approach”.

However, perhaps the most useful analytical concept to capture this balancing is Mehdiyeva’s (2011, p.27) more subtle description of Azeri foreign policy as ‘strategic manoeuvring’. While resting on same multi-vector dynamic as above, this notion both avoids reproducing states’ own descriptions of their policy practice and contains an explicit recognition of the fact that while states will cooperate with all major powers and seek to maximise their benefits from doing so, they do have greater alignment with some powers over others (the EU and US in the case of Azerbaijan) (Mehdiyeva, 2011, p.27). Indeed, while Hanks notes there that there have been “occasional shifts in emphasis” in Kazakhstan’s multi vector foreign policy (Hanks, 2009, p.260), others have more recently noted a move towards Russia in Kazakh foreign policy, particularly in the face of the Arab Spring and more overt Western support for pro-democracy movements abroad (Smith, 2012b). Furthermore, despite a rhetoric of neutrality, political realities have meant a traditionally predominant focus on relations with Russia in Turkmen foreign policy (Anceschi, 2008, p.2; Dennison, 2009, p.429). This policy has undergone a partial shift

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15 Turkmenistan follows another, more isolationist, form of multi-vector foreign policy that the Turkmen government refers to as “positive neutrality” (recognised as such by the General Assembly of the UN in December 1995) (Anceschi, 2008, p.1). Anceschi (2010, p.94) argues that there are two primary objectives of the policy of positive neutrality. The first was to create a self-imposed isolation in order to facilitate the domestic consolidation of the Niyazov regime (until Niyazov’s death in 2006). The second objective was to consolidate control over the domestic natural gas industry “essential to [the running of] the Turkmenistani economy and to lubricate the regime’s patronage system” (Anceschi, 2010, p.94).
under current President Berdymohamedov however (Anceschi, 2010, p.95). Indeed, as Anceschi (2010, p.95) asserts Berdymohamedov has continued to seek to insulate his country from ‘destabilising’ external influences he has gradually opened up to China (via the construction of a Turkmenistan-Kazakhstan-China gas pipeline) and to a lesser extent the West via potential participation in the EU’s proposed Southern Corridor project. As usage of the term “multi-vector foreign policy” is ubiquitous in the literature on Central Asia and the Caspian, it will continue to be used in this thesis. However, its usage should be considered as incorporating this more flexible and adaptive notion of “strategic manoeuvring”.

Overland, Kendall-Taylor & Kjaernet (2010, p.7-8) discuss the challenge facing Caspian states in their relations with regional powers. They note that cooperation with Western countries brings benefits for Caspian leaders in the forms of legitimation and access to open transparent export markets, capital and increased technology (Overland, Kendall-Taylor & Kjaernet, 2010, p.7-8). Yet at the same time Caspian leaders fear Western condemnation and disassociation in response to democratic failings or domestic crackdowns that are potential corollaries of their authoritarian rule and are increasingly worried by Western support for pro-democracy movements, especially in light of the Arab Spring (Smith, 2012b). By contrast, other regional players, Russia and China, do not criticise human rights or democratic shortfalls and, at least in China’s case, interfere very little in domestic affairs. Nevertheless Russia and China are, when compared to Caspian states, large regional powers that Caspian states also fear as potential hegemons (Overland, Kendall-Taylor & Kjaernet, 2010, p.7-8). Therefore, as described above, Caspian states pursue multi-vector foreign policies in an effort balance between the risks and opportunities of engagement with both Western powers and Russia and China.

In sum, the states of the Caspian region are afflicted by a number of energy-related phenomena that both shape their political systems and impact on European actors
operating in the region. The resource curse increases states’ (and elites’) overall
dependence on energy revenues whilst at the same time fuelling the personalist, neo-
patrimonial systems within these countries. Likewise resource nationalism, impacted
again by elite dependence on energy revenues presents risks for foreign investors. Finally,
the presence of numerous global competitors presents opportunities for Caspian states to
balance between and bandwagon against major powers. As will be discussed further in
this thesis, while Caspian states’ multi-vector foreign policies present the EU with an
avenue for engagement with all of the Caspian states, at the same time, the other trends
discussed above pose a number of clear risks for European actors operating there.

**EU Upstream energy policy in the Caspian**

Having outlined above the seemingly discordant nature of European energy policy and the
structural challenges present in the Caspian, the rest of this section now turns its attention
to both the EU’s involvement in the Caspian region itself and the literature on relations
between political and commercial actors in energy.

*The EU in the (Caspian) upstream*

One key theme that emerges from the literature on the EU’s energy engagement with the
wider neighbourhood is the difficulty the EU faces in exporting its preferred energy
governance models outside of its immediate periphery, particularly to energy producers
such as those in the Caspian Region (Padgett, 2011; Van Aartsen, 2008; Pardo Sierra,
2010). Claes argues that the "EU cannot escape the fact that the legally-based free-market
logic is ill-suited to relations with many energy producers" (2009, p.51). Likewise, the IEA
argues that "in practice, [the process of regulatory approximation towards European
norms] has not captured the imagination of Caspian producers, who feel that the
strategic and commercial value of the gas trade – rather than the details of the Gas
Directive – should be the basis of their energy relationship with the EU" (IEA, 2008, p. 45).
Indeed, Padgett (2011, p.1083) contends that while the EU is able to extend the energy acquis to external partners in the near neighbourhood through the EU Energy Community16, “there seems little prospect of attracting gas producers in the Mediterranean, Caspian Basin and – still less – Central Asia to participate in the Energy Community model of co-operation”. For these countries he asserts that “piecemeal bilateral diplomacy is the most productive model of co-operation” (Padgett, 2011, p.1083). While not elaborated on by Padgett, the dynamics of this European diplomacy and its interrelationship with the promotion of energy governance form a core analytical focus of this thesis.

Padgett, (2011) and Pardo Sierra (2010) have both employed aspects of regime theory, and the concept of distribution and enforcement costs (see also Lavenex, 2008), to analyse the prospects for governance regimes in the EU periphery. Distribution effects, Padgett asserts (2011, p.1067), “arise when states have divergent or asymmetrical interests in co-operation and/or where the benefits are unevenly distributed”. By contrast “enforcement problems occur where states have a common interest in co-operation, but where there are incentives to defect from agreements for short-term gain” (Padgett, 2011, p.1067). Padgett argues that where interests are asymmetrical, such as those between energy consumers like the EU and producers such Kazakhstan or Azerbaijan, then distribution and enforcement problems will be higher, cooperation is likely to be more difficult and institutional structures will need to be correspondingly more flexible and bilateral in nature (Padgett, 2011, p.1070).

Padgett (2011, p.1068) and Pardo Sierra (2010, p.648) also both discuss the role that a regional hegemon can play in facilitating the development of international regimes. However exploiting this hegemony, especially in an ideological sense, involves “belief [on

16 The Energy Community (based on the Energy Community Treaty) is an EU external energy policy framework that entails the export of the EU acquis in energy towards a number of states in the EU’s near periphery (the Balkans, Ukraine, Moldova, Turkey and Georgia).
the part] of secondary states that they will benefit from the regime, and an underlying complementarity of interests” (Padgett, 2011, p.1068). Padgett (2011, p.1070), suggests that the EU exerts far less hegemonic pull over countries in the CIS than it does in relation to states closer to the EU and correspondingly far less pull than Russia. This, he argues (Padgett, 2011, p.1070), means that these states will seek less committal institutional energy arrangements with the EU. Pardo Sierra concurs (2010, p.648) arguing that “the EU has difficulty fulfilling the role of a classical hegemonic power”. Indeed for the EU to be successful in the context of its external energy policies to the wider neighbourhood, Pardo Sierra (2010, p.648) argues that the EU needs to seek to build institutional frameworks that can work in the absence of hegemony.

Pardo Sierra (2010) suggests a number of additional factors that hinder the EU’s ability to export its external energy governance to the Black and Caspian Sea regions. Firstly, and echoing an argument seen above with regard to EU foreign policy, he stresses that successful policy action is predicated on a high degree of coherence between member states interests and EU level policy (2010, p. 648). Secondly, (and related to the previous point) he argues that the EU’s capacity for collective action is hindered by high level geopolitics. He asserts that the EU “is generally unable to challenge power politics and has not developed the tools or political will to deal with hard realpolitik choices” (2010, p.648). Finally, and echoing the work of Youngs (2009b) and Barbé, Costa, Herranz-Surrallés and Natorski, (2009) on EU external governance, Pardo Sierra avers that both the domestic context of third party countries who demonstrate different politico-economic norms and the presence of regional players who promote opposing interests, hinder the export of the EU’s energy governance (2010, p.649).

Contrastingly, rather than focusing on the challenges of EU energy governance promotion, Prange Gstöhl (2009, p. 5297) presents reasons why third party states in the EU periphery (without short to mid-term membership prospects) might wish to adopt EU external
energy governance. He offers three reasons. Firstly, those that seek long-term integration with the EU may wish to demonstrate their desire and capability to become “part of the [EU] club” (Prange Gstöhl, 2009, p.5297). Secondly, he notes that some states may wish to engage with the EU to offset the influence of regional hegemons such as Russia (and increasingly) China (2009, p.5297). Prange Gstöhl (2009, p.5301) argues that greater integration with the EU provides, for example, a way for states in the former Soviet Union to offset the risks of Russia’s increasing promotion of regional institutional initiatives (such as the Customs Union and EurAsEC) that have the potential to become institutional forms of Russian dominance17 (2009, p.5301). Thirdly, Prange Gstöhl (2009, p.5301) notes that while access to the internal market does not necessarily compensate for the costs of adopting EU regulations, some countries might find that adopting parts of EU energy governance “lowers risks, improves a country’s policy framework and makes it more stable, and consequently raises the likelihood of investment”18. Indeed, as discussed in chapters six and seven, European investments are sometimes favoured by periphery countries as they are seen as being attached to fewer political conditions than those from Russia and China (Prange Gstöhl, 2009, p.5301).

Despite the useful insights of the contributions above, the literature on EU’s upstream energy policy in the Caspian has a number of shortcomings. The analyses that discuss EU upstream policies in the Caspian are for the main part theoretical/conceptual offering little detailed empirical investigation. Likewise, these accounts are correspondingly prospective suggesting what may or should occur rather than what is taking place in the region. Furthermore, most of these accounts assess the prospects and challenges likely in the export of EU energy governance rather than the intra-European dynamics of this

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17 Conversely however, engagement with Russian institutions provides a way to offset the respective (but different) risks of overdependence on the EU.

18 These latter two motives together also raise the question of the balance between states’ desires to defensively shield themselves from regional risks via engagement with the EU and their interests in opportunistic interaction as a way to maximise their regional position, opportunities and room for manoeuvre. Just as the EU can pursue simultaneous economic and political actions, so too can Caspian states.
activity. As such, these accounts contain little discussion of cooperation between member states, little engagement with the EU’s energy policy in practice and little attention to the role and perspectives of commercial actors. Consequently, there remains much scope for research into the governance and diplomatic actions of EU upstream cooperation as well as the intra-EU relations that accompany these practices in the Caspian.

**Politico-commercial relations in foreign energy policy**

Given the focus in this thesis on the EU’s role in the Caspian upstream and the corresponding ‘catalytic’ diplomatic interaction between companies and the EU (Hocking, 2004a, p.100) this section reviews literature on the foreign policy interaction between energy companies and political actors. Somewhat surprisingly, given that a great deal of the EU’s energy policy pertains to relations between companies and political actors, there has been little scholarly analysis of energy companies and their relationships with the EU (in the Caspian or otherwise). Given this limited research base, this section first outlines some of the findings from literature on US-company relations and the US Government’s role in energy markets, so to provide additional context of political-commercial interaction in energy, before turning to look at the EU.

**US-company relations**

Several scholars and journalists have presented detailed, anecdotal histories of oil politics that discuss company-political actor relations. Yergin (1991) for example documents at great length the intersection between the worlds of energy business and national security, highlighting both the tensions and convergence between these two spheres. Indeed, Yergin (1991, p.13) describes the energy industry and the role of oil in national strategy as two of the “great themes that underlie the story of oil”. Likewise, Coll (2012) presents a rich history of the US oil company Exxon Mobil. He documents, for example (2012, p.362-3), the extensive links between Exxon and the US Government including cooperation on
security in African countries such as Chad, where US embassy officials provided security advice and intelligence to Exxon and where the State Department lobbied the World Bank (on behalf of Exxon) to lessen pressure on the Chadian Government. Similarly, Coll (2012, p.469) highlights Exxon’s requests for defence support from, and information sharing with, the US Navy in the Niger Delta following an increase in violence, sabotage and kidnapping in the region in 2006. Nonetheless, Coll also documents Exxon Mobil’s initial attempts to deal with these issues itself, only turning to the US Government when problems became too significant for the company to manage (2012, p.469). Coll (2012) refers to Exxon as a “private empire” and, like Yergin, finds examples of both cooperation and disagreement between the US Government and the oil company.

Less historically-detailed but more conceptually focused, a number of scholars have documented relations between energy companies and the US Administration through use of (structural) Marxist and realist understandings of state-company relations (Vivoda, 2010; Stokes, 2007; Krasner, 1978; Bromley, 2006). Vivoda (2010), for example, questions the role of US multinational oil companies in furthering US energy security interests. Companies, he contends, generally act in their own interests and cannot be seen as an arm of the US state (2010, p.8-9). Likewise, he contends that the US state often acts independently of multinational capital interests pursuing objectives that run counter to company preferences (2010, p.9-10). For Vivoda (2010, p.12), US-multinational oil company relations are based on pragmatism, with both sides simultaneously pursuing their own, sometimes competing interests and cooperating only when it is in their interests to do so. Vivoda discusses these relations in the context of Poulantzas’s structural theory of Marxism, where state officials are conceived of as using their “relative autonomy” from particular business interests to ensure the long-term general conditions for (energy) capital rather than the particular interests of specific businesses (Vivoda, 2010, p.9). A similar dynamic between the EU and energy companies is identified in chapter six and seven.
Stokes (2007, p.248), like Vivoda, outlines a structural Marxist understanding of US foreign energy policy, arguing that the US seeks not to pursue the interests of individual companies, but rather seeks to provide the conditions necessary for global capitalism and in doing so provide global public goods that bolster US hegemony. Stokes (2007, p.250), argues that the US’s post-World War Two strategy has been based on the “maintenance and defence of an economically liberal international system conducive for capital penetration and circulation coupled with a concomitant global geo-strategy containing social forces considered inimical to capitalist social relations”. Likewise, the energy-specific application of this policy has seen the US work to ensure adequate supply of energy to world markets. Indeed, as Stokes (2007) suggests “American power has played a [energy] system-maintaining role that has benefited a number of core states as well as America itself [...] maintaining a stable supply of crucial energy onto the world market”. Bromley (2006, p.429) makes a similar argument, focussing on the trade and economic dimensions of this policy. He stresses that “US policy has aimed at creating a general, open international oil industry, in which markets, dominated by large multinational firms, allocate capital and commodities”. The USA does not, according to Bromley (2006, p.429), seek to control markets so much as create the conditions for market penetration by large globally-operating companies (including non-US companies) who will adequately supply the world oil market. While he does not elaborate on the political risks that companies face (as this thesis will), Bromley (2006, p.429) asserts that “investment rights matter”, noting that they are the “mechanisms by which the means of technologically more developed, capital-rich firms can be applied to the end of increasing [oil] output in the technologically less developed, resource-rich but capital-poor regions”. Krasner’s (1978) Cold War era study comes to an opposite conclusion, forwarding a statist, realist account of US raw-materials policy. For him the US’s decision to cooperate with economically nationalist, but not communist regimes (which were equally as bad for investment opportunity-seeking energy companies) demonstrates the trumping of national security
interests (i.e. countering the Soviet Union) over the interests of companies. The insights from Krasner (1978), Vivoda (2010), Bromley (2006) and Stokes (2007) are pertinent in the context of this study, raising potential questions about both the nature of the relationship between European actors and the energy industry and the wider role that the EU plays in energy-rich regions. Indeed, these accounts draw attention to whether the EU can play a similar structural role in energy markets, especially given the challenges inherent to the formulation of common EU diplomatic positions. Chapters four, five and six of this study evaluate the structural energy role played by the EU and chapters six and seven together consider the potential for EU diplomatic support in the Caspian.

In contrast to the approaches that seek to characterise the broader US's foreign energy role in realist or Marxist terms, Goel (2004) examines the micro-level interaction between US companies and the US Administration. Using Strange's (1988) notion of an "implicit bargain" (as employed in this thesis) Goel investigates the tacit cooperation between the US Executive and Western oil companies in the building of the Baku-Tbilisi-Ceyhan (BTC) Pipeline from the Caspian to Turkey in the 2000s. In the BTC case, as Goel (2004, p.487) outlines, companies provided the technical capacity and funding, and the US government provided funding guarantees and diplomatic support to ensure the security of company investments. Goel (2004) demonstrates that using Strange's (1988) notion of a political authority-market bargain is an effective way to evaluate energy relationships between the political and commercial actors. As such, and as will be described further in the next chapter, this approach is employed and expanded in this study to evaluate the upstream relations and resource dependency between European political actors and energy companies in the Caspian.

**EU-company relations**

While the US foreign policy-energy company relationship has received some (albeit limited) academic focus, EU-energy company relations have received comparatively less
attention. Youngs (2009; 2007) provides one of the very few discussions of the European energy industry in the context of EU external energy relations. Unlike member states, Youngs (2009, p. 157) suggests that companies are less worried about the risks of supply disruption from suppliers and more concerned with encouraging the EU to focus on improving investment conditions in third countries. He notes how companies call for stronger political backing from the EU recognising that “individual member states could not now achieve very much on their own” and that the foreign policy dimension of EU energy policy is one of the areas where “most useful value added could emerge” (Youngs, 2009, p.154). Building on these observations, companies’ perspectives on EU energy diplomacy and support for companies (as well as the tensions this poses for EU officials) will be examined in more detail in chapter six and seven.

Youngs avers that companies have however a somewhat “schizophrenic attitude” towards EU energy policy (Youngs, 2009, p.155). He argues that companies recognise “the need for enhanced strategic, foreign policy dimension to energy security” and lament the lack of EU energy coordination on the world stage, but at the same time fear that the EU will interfere in and impede their business practices (Youngs, 2009, p.155). These observations echo Levy and Prakash’s (2003, p.133-138) findings on multinational companies’ perceptions of international governance. They argue (2003, p.133) that international regimes, can be either market enabling or regulatory and that multinational companies, such as energy firms, ordinarily seek to internationalise market enabling governance (to reduce impediments to their business operations) but aim to keep costly regulatory regimes at the national level where they have more scope for influence.

Indeed, Youngs (2009, p.169) argues, that companies support market-based approaches to energy policy in principle but at the same time sometimes seek to impede the free market orientation of policy and fear an overregulated market environment in third party countries (Youngs, 2009, p.169). Youngs suggests that companies' espousal of free market
policies can at times be disingenuous as they seek generally to limit competition rather than increase it (2009, p.157). Companies were rather concerned with building relations with pro-market officials in third countries and getting the EU to pursue “business enabling” governance, concerning the sanctity of contracts and profit repatriation (Youngs, 2009, p.162). Chapter five picks up this theme and considers the overlap between company, member state and EU institution perspectives on the promotion of energy governance in the Caspian.

CONCLUSION

This study seeks to expand knowledge on the European upstream energy cooperation in the Caspian Sea region. In doing so the thesis investigates EU energy policy objectives and diplomatic activity in the Caspian upstream, analyses company and member state perspectives of EU policy and examines the relationships and catalytic diplomatic interaction between European political and commercial actors in the region. Furthermore, theoretically speaking, it develops a politico-economic framework of analysis and a series of models needed to explain, respectively, the structural conditions of the Caspian operating context, the nature and objectives of EU upstream policy in this area and the intra-EU politico-commercial interaction in the region.

As described above, the literature on EU upstream energy policy and politico-commercial relations is at present rather limited. Most scholarly accounts of EU upstream policy in this area are prospective and theoretical, presenting little empirical analysis of EU policy in action. Likewise, with the exception of the work by Youngs (2009), the research on EU-company relations in foreign energy policy is also underdeveloped. Indeed, the research gaps present in the literature provides much scope for detailed empirical investigation of the EU’s upstream energy role and objectives, the perceptions of member states and companies of this role and of the upstream interaction between these actors in the Caspian region.
In contrast to the studies on EU energy policy that highlight the difficulties the EU has faced in the formulation of a common energy role, this thesis argues that European energy relations in the Caspian upstream are broadly cooperative. Indeed, while European actors are not in perfect alignment and tensions persist, a series of shared perceptions on the risks in the upstream, (relatively) shared perceptions of the EU policy role and mutual resource interdependence between political and commercial actors drives a higher level of cooperation than is generally seen in energy policy.

However, before turning to the empirical analysis of the EU's engagement in the Caspian and relationship with commercial actors, this thesis discusses the theoretical frameworks and research methods employed.
CHAPTER TWO

THEORISING EU ENERGY COOPERATION IN THE CASPIAN REGION

This chapter outlines the theoretical frameworks used to analyse European upstream energy cooperation in the subsequent chapters. It argues that neither the current conceptualisations of EU external energy policy nor the broader literature on energy politics provide, in and of themselves, suitable models for analysis of intra-European politico-commercial cooperation in the Caspian. Furthermore, this chapter contends that European foreign energy cooperation defies analysis through any one single paradigm, requiring instead, an eclectic interdisciplinary theoretical framework. This is especially the case given that this thesis merges two areas of political science (European foreign policy and energy policy studies) where eclecticism is particularly appropriate. Indeed, European foreign policy analysis is often though to benefit from theoretical eclecticism (White, 2004, p.23; Ginsberg, 2001, p.21). Likewise, Strange (1988, p.53), Keating et al, (2012, p.2-3), Checchi, Eneghofer and Behrens, (2009, p.1-2) and Harstem and Claes, (2013, p.785) have highlighted the politico-economic character of energy politics and the subsequent need for politico-economic theorisation.

The different political and commercial actors, security and commercial objectives and politico-economic dynamics that this study entails all call for a degree of theoretical eclecticism in the mode of inquiry. As such, this chapter outlines a number of eclectic heuristic models derived from the literatures on IPE/IR (Strange, 1988; Goel, 2004; Cox, 1986; Wolfers, 1962), European external relations/foreign policy (Hyde-Price, 2008;
Hocking, 2004a; 2004b; Hill, 1998; Smith 2004a; Keukeleire, 2003) and Public Policy (Eising, 2009; Bouwen, 2002) designed to aid explanation of:

1) The structural operating conditions of the Caspian;

2) The EU’s upstream energy role and objectives; and

3) The cooperation between EU institutions, member states and commercial energy actors.

Eclecticism and the philosophical approach of this thesis

Eclecticism is not, however, a license for conceptual anarchy. So as to avoid the risks inherent to conceptualisation of this nature and in an effort to be clear about one’s ontological position, this thesis offers a philosophical-theoretical-methodological framework underpinned by a critical realist philosophy of science. Critical realism makes an important contribution to the thesis as it facilitates theorisation of the complex mix of conceptual factors discussed in this theoretical chapter (that, in turn, support the empirical analysis in the following chapters). Indeed, as described below, the study of both EU foreign policy and the political economy of energy benefit from interdisciplinary eclectic analysis that, in turn, requires a philosophical framework logically capable of supporting such eclecticism. This fact derives from the complexity of these areas of enquiry, involving numerous different types of actor, different forms of power/resources and the intersection of different political and economic structures, each with different causal logics (see section on Cox below).

Critical realism is based on the tenets of ontological realism, epistemological relativism and judgemental rationalism. Put simply, this refers to a position where one accepts that there is an independent reality (mind-world dualism), that it is difficult to know with absolute certainty that one has got ‘close’ to this reality, but that it is also possible to give systematic, logical reasons for why one is confident in one’s academic results. Taken
together the tenets of critical realism offer a philosophy of social science capable of logically supporting the multi-causal, inter-paradigmatic framework and heuristic theoretical models developed below (Patomaki & Wight, 2000, p.225; Kurki, 2008, p.206).

The capacity of critical realism to support eclectic theoretical frameworks derives, in particular, from the form of abductive reasoning and the broad understanding of causality associated with critical realist philosophy. The form of reasoning adopted by critical realists is abduction (rather than deduction or induction). Abductive inference relies on producing plausible accounts of particular instances based on the data available to scholars (Jackson, 2010b, p.82). As Jackson highlights (2010b, p.83), the purpose of such an approach is “to posit, or conjecture, the existence of some process, entity or property that accounts for the observational data”. Such ‘processes, entities and properties’ may be either observable or unobservable factors and can be both material and ideational. This form of reasoning does not produce generalizable research findings that would apply to all cases of European upstream energy policy or politico-commercial relations in energy. However, it does permit forms of theorising that incorporate a mix of different factors logically capable of analysing complex interactions of different actors, forms of power and politico-economic structures (like those studied in this thesis). The cost of such an approach is a loss of theoretical parsimony. However, in cases of complexity, aiming for parsimony can risk the production of reductive accounts that miss important information. As described in the following chapter, while models derived from this form of abductive reasoning are not generalizable and thus do not allow one to construct covering laws of the social world, they may however be transferable to other similar instances, where they may prove useful in conducting analysis.

Beyond the abductive form of reasoning, critical realism is useful in analysing complex theoretical questions because it adopts a broader view of causality than most other philosophies of social science, and thus presents the possibility for different types of cause
to have impact in a given instance (Kurki 2006, p.202). This is important from the purposes of eclectic theorising because different theories normally disagree on the causal logic of action in social affairs rather than the basic ontological facts of reality. Neo-realists and classical realists, for example, both agree that states and international systems exist – where they disagree is in the causes that determine states’ behaviour and interaction. Indeed, it is in the identification of the causal phenomena that different theories and paradigms in the social sciences tend to diverge. However, the wider understanding of causality inherent to critical realism reduces these dichotomies and allows for examination of how the various causal factors employed by competing or overlapping paradigms interact in given instances. Critical realism consequently draws focus to the overlaps between different approaches, and therefore importantly, the latent prospect for theoretical fusion or accommodation (Patomaki & Wight, 2000, p.226) - (Further consideration of these philosophical dimensions, and the way they inform the theorisation in this thesis, is provided in annex one).

Furthermore, the tenets of critical realism also support the research methods adopted in this thesis. While holding that there is a fixed reality 'out there' (ontological realism), the epistemological relativist and judgemental rationalist dimensions of critical realist thought give researchers a degree of flexibility in the choice of research methods, sources and techniques they utilise (Lipscomb, 2011, p.5), provided they can give good reasoned arguments for why these have been adopted and how they facilitate the production of valid results. As such, this approach also supports the adoption of a pragmatic, triangulated series of research methods, as employed in this thesis (see chapter three for further discussion on internal validity and the research methods adopted in this thesis).

The rest of this chapter is organised as follows. The first section justifies the need for an eclectic approach and explains some of the limitations of the wider theorisation of European and international energy politics to date. The second section sets out the
overarching ontological framework that underpins and guides the specific uses of theory in the subsequent chapters. The third section elaborates a series of politico-economic heuristic models employed in the following chapters to help explain the EU’s upstream energy cooperation.

THE NEED FOR AN ECLECTIC APPROACH TO THEORISING ENERGY INTERACTION IN THE CASPIAN

While establishing parsimonious explanations of social reality is one of the core objectives of social science, research conducted exclusively within set paradigmatic boundaries can at times entail shortcomings. It is sometimes impossible to capture the intricate reality of a particular issue-area through a single paradigmatic framework without oversimplifying complex phenomena and consequently missing causally-important factors. As Patomaki and Wight (2006, p.226) note, “given the complexity and open nature of the social world [...] it is hardly possible that a single paradigm could ever dominate”. As Sil and Katzenstein (2010, p.413) argue, specific paradigmatic research traditions permit an avoidance of aspects of “complex reality that do not neatly fit within the metatheoretical parameters they have established by fiat”. However, such “simplifying moves” are not necessarily “independently capable of generating a more comprehensive understanding of complex, multi-faceted problems”. Analytical eclecticism (Sil & Katzenstein, 2010, p.414) is helpful in these instances as it fosters an approach capable of weighing up the strengths and trade-offs of different theories and merging them so that causal mechanisms of different approaches can be “reconceptualised and integrated as elements of a more complex explanan[s]” [emphasis added]19.

The interdisciplinary analysis of both European foreign policy and energy politics warrants a degree of theoretical eclecticism. Indeed, the involvement of multiple business,

19 It should be noted that this thesis does not adopt analytical eclecticism’s disregard for meta-theory or the dangers of eclecticism. On the importance of meta-theory see Reus-Smit (2013). See annex one for the meta-theoretical position adopted in this thesis.
state and supranational actors, the divergent domestic, transnational and international spheres of action, the strategic and economic implications of policy decisions as well as the impact of both material and ideational influences calls for a mode of analysis capable of taking these varied factors into account. However, neither the literature on EU energy policy, nor the wider literature on international energy affairs has produced a set of theoretical models that are, in and of themselves at least, suitable for the investigation undertaken here. While numerous insights can be drawn from these literatures, the theoretical literature at present does not offer the kind of frameworks suitable for the form of politico-economic analysis conducted in this thesis.

**Current conceptualisations of European energy policy: Explaining policy failure and divergent politico-economic ontologies**

As mentioned previously, the literature on European energy policy, especially its external dimensions, tends to present European policy as discordant. Correspondingly, the (often implicit) conceptual underpinnings of this literature mirror debates about the wider difficulties of formulating a common European foreign policy in general. A number of contributions reflect Zielonka (1998) and Hill’s (1998) notion of “a logic of diversity” in European foreign policy. In describing the logic of diversity, Hill (1998, p.36) notes how the “different histories [of European states] mean divergent identities, widely differing political systems (even within the confines of liberal democracy), differing patterns of relationships with the wider world, and differing capabilities at all levels”. He adds that this “make[s] common action in foreign and defence policy problematical” (1998, p.36). Similarly, a number of EU energy policy contributions reflect the capabilities/consensus-expectations gaps present in EU foreign policy (Hill, 1993; Toje, 2008) that highlights the difference between the expectations placed on the EU (i.e. to develop an effective energy policy) and the EU’s actual capacity to reach consensus and develop policies that meet these expectations in practice. Indeed, while Europe possesses the potential to be a major
actor in energy policy if it were able to devise a rational, common, cooperative policy approach (Bozhilova & Hashimoto, 2010; Westphal, 2006), divisions between member states and differing member state relations with foreign actors (such as Russia) militate against comprehensive European external energy cooperation (McGowan, 2008; Schmidt-Felzmann, 2008; 2011; Youngs, 2007; 2009; Leonard & Popescu, 2007; Braghiroli & Carta, 2009; Smith, 2008).

However, this thesis does not investigate the causes of this intra-EU discord, but rather aims to account for the growing cooperation between European political and commercial actors in the Caspian upstream. As such, while providing important insights that are apposite given the general discord in EU relations, the theoretical repertoire on European foreign energy policy does not, in and of itself, provide sufficient tools for examination of the impact of the Caspian structural context of EU policy, the EU’s objectives and role in the Caspian or the cooperation between European institutions, member states and companies.

Furthermore, in addition to mirroring debates on discord in European foreign policy, the theoretical conceptualisation of energy politics in Europe often reflects wider divisions in the energy policy literature between political and economic-focused analyses of energy affairs. Despite calls for the development of eclectic politico-economic modes of analysis in the study of energy relations (Strange, 1988, p. 191; Keating et al, 2012, p.4), and bar a few notable examples discussed in chapter one (Stokes, 2007; Bromley, 2006; Vivoda, 2010; Goel, 2004) a substantial part of the scholarly literature on international energy politics is characterised by a separation between geopolitical/realist and economic-market/liberal based accounts (Grant, 2008; Chester 2010; Luft & Korin, 2009; Finon & Locatelli, 2008; Cuità, 2010; Casier, 2011a; 2011b).

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20 Indeed, (neo) realism and geopolitics themselves are at times conflated without any detailed systematic discussion of the similarities or differences between their respective intellectual histories (see for example Finon & Locatelli, 2008, p.425).
These geopolitical and liberal-market distinctions manifest in several ways, often implicitly. Some accounts, for example, present direct reflections on the energy security and international energy affairs literatures, accounting for the different geopolitical/liberal positions that scholars take without subscribing themselves directly to a particular position (Cuită, 2010; Chester, 2010; Youngs, 2009). Others present the literature as overly ‘geopolitical’ highlighting how (neo)liberal-institutionalist/economistic understandings of energy politics provide a better framework of analysis (Finon & Locatelli, 2008; Casier, 2011a; 2011b; Grant, 2008; Taylor & Van Doren, 2008; Noël, 2008). By contrast, Luft and Korin discuss this division from the opposite perspective, arguing instead for the superior insights of ‘energy realism’ over ‘energy idealism’ (2009, p.340). Many empirically-minded accounts do likewise. Klare, for example, discusses potential conflict between global powers over oil resources in starkly ‘geopolitical’ terms, titling a 2009 chapter “There will be Blood” and arguing that US and Chinese “efforts to militarize their foreign energy endeavours will produce a competitive stance between them and someday spark a dangerous confrontation” [sic] (2009, p.59). Fettweis (2009, p.66) disagrees, arguing that the need for economic cooperation in energy relations and the rational futility of conflict over energy supplies means that resource wars are “obsolete”.

A number of accounts of European energy politics present a form of this wider geopolitics/market-liberalism divide in their conceptual characterisations (Youngs, 2007; 2009; Correljé & van der Linde, 2006; Westphal, 2006; CIEP, 2004; McGowan, 2008; Finon & Locatelli, 2008; Casier, 2011a; 2011b; Noël, 2008). For example, Correljé and van der Linde (2006) and CIEP22 (2004) present ‘regions and empires’ and ‘markets and institutions’ “storylines” to account for potential developments in international energy relations. Youngs (2007), employs the notions of ‘markets’ and ‘geopolitics’ to characterise

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21 Likely a reference to the 2007 Daniel Day-Lewis film with the same title.
22 It should be noted that CIEP (2004) does discuss at length some of the interactions between political and market based actors (p. 42-48).
the behaviour of the EU (particularly the European Commission) and a number of recalcitrant member states respectively.

Overall, however, these geopolitical and market-liberal approaches often explain energy affairs in a manner that reproduces the longer pessimistic-realist/liberal-rationalist divide in international thought. Wight (1987, p.221) famously highlights the difference between realist, rationalist and revolutionist tendencies in the historical evolution of international thought with these intellectual trends representing the greater emphasis placed by various schools of thought on different aspects of international affairs. Realists, in Wight’s formulation (as more broadly), place emphasis on the anarchical system of sovereign states and are generally pessimistic with regard to international interaction. Rationalists, by contrast, are more optimistic, emphasising the prospects for international law, institutions and diplomacy. Revolutionists see the current order as illegitimate or invalid and in need of change (Wight, 1987, p.222-6). At the level of ontology, geopolitical approaches to international energy affairs demonstrate the tendencies of pessimistic-realist thought. Conversely, market-liberal perspectives present a rationalist view, with some accounts (such as those discussing fuel poverty, for example) also incorporating elements of the revolutionist (Goldthau, 2012). Just as the different emphases discussed by Wight can be traced throughout much of the history of the subject of International Relations, including the so-called ‘great debates’23 between realists and idealists and more latterly neo-realists and neo-liberal institutionalists, so too is the international energy affairs literature similarly characterised by contemporary formulations of these competing pessimistic–rationalist traditions. However, for Wight (1987, p.227) (and other advocates of the English school) these three perspectives were logically connected and dynamically interwoven yet they were also, he averred, “in mutual tension and conflict”. It is clear

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23 It should be noted that some of the the historiography of these debates contests both the existence and character of the first great debate (Vigneswaran & Quirk, 2004). Nonetheless, Wight’s broad notions of realism and rationalism can be seen in these theoretical contestations as they can in the geopolitical/liberal market approaches to energy.
nonetheless, that from Wight’s perspective, the “dynamic interweaving” of all three needed to be taken into account for a full understanding of international politics (1987, p.227). Indeed, focusing solely on one of these traditions of thought “will necessarily result in an incomplete picture” (Little, 2000, p.398).

In the case of energy these divergent approaches tend to place greater emphasis on different observable trends in the interwoven political and economic dimensions of global energy affairs. Claes argues that international energy politics is characterised by “contradicting but coexisting trends” (2009, p.38). Here he refers to the contradictory (and to some extent dialectical) trends of both global transnational economic liberalisation and the simultaneous and conflicting wave of renationalisation and augmented state control in energy producing states (2009, p.38). While capital, companies and investments move globally in the energy sector and while energy commodities continue to be traded on global markets, over the last decade many energy producers have adopted increasingly nationalistic and statist policies in oil and gas, reversing previous market opening trends (Claes, 2009, p.40; Behn & Pogoretskyy, 2012; Goldthau, 2012; Noreng, 2009, p.210; Helm, 2005, p.2). Similarly, Helm (2005, p.1-3) argues that the 2000s saw a “paradigm shift” in energy towards a greater acknowledgement of the role of security of supply (and climate change), a greater involvement of political actors in energy and a more political notion of energy policy. However, the change towards these ‘newer’ challenges does not, he contends, involve a rejection of the old liberal paradigm but rather entails a combination of liberalising and more political security of supply objectives. This shift, Helm (2005, p.14) suggests, is often ‘messy’, involving the merger of institutional structures and ideas from the liberal paradigm with others designed to meet new political and security realities in energy.

24 Indeed, Wight noted (1987, p.226) that taken together the three constitute “a system of political philosophy”.
25 Albeit to differing extents - oil is more widely traded on international markets than gas (although this is changing with advent of LNG and the so-called shale gas revolution).
Realist-geopolitical and liberal-market based accounts of international energy politics tend to order the analytical (and causal) hierarchy of parallel global inter-state and transnational economic systems differently, locating explanations for energy politics accordingly, sometimes omitting or reducing attention to their less preferred system/actors. Liberal approaches tend to present the virtues of a rationally-designed interdependent transnational system capable of constraining state behaviour. By contrast, realists privilege analysis of the inter-state system, focusing pessimistically on the conflictual character of competing state interests, sovereignties and power, yet at times downplaying the role of markets and market actors (Junne, 1994, p.84). While each framework brings important insights, they also tend to downplay the contributions of the competing schools of thought and consequently make difficult the synthesis of political and economic analysis needed in energy policy (Strange, 1995, p.169; 1988, p.191; Watson, 2012).

Neither of these approaches entirely captures the political economy of energy. Indeed, as Checchi et al (2009, p.1) note, they are “both two sides of the same coin” and “both are necessary to explain the challenges as well as the solutions to dealing with the security of energy supply in Europe”. Even the most common components of definitions of energy security - ‘affordability’ and unrestricted ‘availability’ - attest to the interconnectedness of the respective economic and political dimensions of energy supply security (Checchi et al, 2009, p.1-2). In sum, what is required is a more convergent politico-economic ontology of international energy affairs capable of sustaining a series of eclectic theoretical models that can help explain the specific questions raised in regard to cooperation between European political and commercial actors in the Caspian.
A POLITICO-ECONOMIC FRAMEWORK OF ANALYSIS FOR ENERGY POLITICS

Building on the contributions in Kuzemko et al (2012) 26, Bromley (1991) and Strange (1988) for a politico-economic approach to energy, this section outlines an alternative analytical framework for the study of international energy affairs. It contends that an analytical framework in the study of energy politics needs to systematically consider four (scientific) ontological issues:

1) The links between the political and the economic in energy;
2) The range of actors and sources of power under investigation;
3) The interplay of transnational, state and interstate spheres of analysis; and
4) The interplay between sources of ideational and material influence in energy affairs.

In addressing these issues, this section does not subscribe to one particular school of IPE/GPE. Rather, it argues that some strands of the literature on International/Global Political Economy, most notably contributions from Susan Strange, Robert Cox and a number of others (see below), present pragmatic and effective ontological answers to the above questions and thus allow one to develop a suitable politico-economic framework for analysis of energy cooperation.

1. Politico-economic synthesis

The study of international energy relations requires a framework of analysis that incorporates political and economic factors without privileging one automatically over the other (Watson, 2012, p.viii). One of the founding objectives of IPE was the development of a working synthesis between the analysis of politics and economics (Strange, 1970, Kindleberger, 1970). While much of the literature on IPE has subsequently presented the subject as the “political economy of international economic relations” seeing the field as

pertaining to the “political aspects of those broadly economic issues that figure on the agendas of governments”, others in the field have argued that the “worlds of politics and economics are not, and cannot be separate from each other” (Strange, 1995, p.169; Wood, 1981).

Indeed, energy commodities, subject both to transnational market trends and of enormous strategic value to political actors, lie at the intersection of the transnational economic and the interstate systems (Bromley, 1991, p.3; Claes, 2009, p.38). Buzan, Jones & Little’s (1993) theoretical discussion of structural realism provides useful insights here. While Buzan et al (1993, p. 31) stress that the “international political” can be an overall focus of analysis, they recognise that the international political system comprises a number of different overlapping sectors (including the political inter-state and economic sectors) and that the study of the “international political can be best developed and humanized by dropping older realist claims for the superiority of political over economic competition”. Indeed they warn that “sectoral blindness [overly focusing on one sector] is an occupational hazard of all human specialisations” and encourage explanations of international affairs to incorporate analysis of both political and economic sectors (1993, p. 31). In this case, international politics means evidently more than inter-state relations, going beyond the notion of politics as the “functioning of government by states” (Strange, 1995, p.169) and getting closer to politics as the workings of the “interhuman system” (Buzan, 1993, p.30). More specifically, the version of what constitutes politics here relates to Hay and Marsh’s (1999, p.13) discussion of politics as the exercise of power (see below) thus transcending both the economic realm and the more conventional understanding of the “political sector”.

Consequently, studying energy affairs requires analytical frameworks that explain the respective logics of the inter-state and capitalist-economic spheres and their two-way interaction (Teschke & Lacher, 2010). As Watson asserts, the study of energy requires
analysis which entails both economic and political processes "but a priori privileges neither in explanation" (2012, p.viii).

2. Core actors and notions of power

The weakening of boundaries between the political and the economic has implications for considerations of both the core actors in international energy affairs and the notion power. The work of Susan Strange is instructive here. Cox (1996) argues that Strange's ontological position with regards to both power and actors in the international political economy was essentially realist, but not in the conventional sense. Strange's realism was "the search for the effective entities in politics, whatever they may turn out to be" (1996, p.183). As Cox asserts (1996, p.183) "instead of defining the world exclusively in terms of states, she [Strange] sees power as the basic concern of realism and asks: where does power lie? With states certainly, to some degree, but also with markets. With firms, too, and possibly with some other entities. The answer is not given with the question and the answer is subject to change". As Guzzini (1998, p.188) notes, for Strange, "anything else would seem utterly unrealistic".

Strange's approach to the study of IPE was thus to focus on the actors that have power and then to ask cui bono (who benefits?) in particular situations, rather than to assume a priori that certain actors always predominate over others (Strange, 1988; Cox, 1996, p.183; Guzzini, 1998, p.177). This view reflects Strange's belief that the world was moving in an increasingly pluralist "neo-medieval" direction where "competing authorities co-exist in world politics and markets, as power has become more dispersed" (Story, 2000, p.27; see also Strange, 1995, p.56). The case of energy draws particular attention to a multiplicity of actors. Most notably, such a pluralist view in energy would include states, multinational corporations and international organisations such as the EU27.

27 The inclusion of non-state actors here is not to presuppose that states are no longer important actors or that they are becoming obsolete. Far from it, they most probably continue to be the most
This 'neo-medieval' view of the global political economy also has implications for the understanding of power. Strange is well-known for a structural view of power in the international political economy (1988, p.24). She argued that in addition to relational power between actors, it was necessary to take into account the ability of actors to shape the four basic structures of the world economy (or any other context) - security, production, finance and knowledge (Strange, 1988, p.24-26). Such a view (and typology) of power is useful here for three reasons. Firstly, this approach to power is \textit{actor neutral}, reducing dichotomies between types of power and not assuming \textit{a priori} which actors will exercise both the power to \textit{determine} each structure and the relational power \textit{within} each structure (Lawton, Rosenau & Verdun, 2000, p.9). Secondly, it disaggregates power and draws attention to the fact that actors may provide forms of power, in various structures, on which other actors rely. As will be described below, this draws attention to the interdependent 'bargains' between diverse actors, each employing different forms of power and resources (Strange, 1988, p.39; Goel, 2004). Thirdly, Strange's four forms of power play a crucial role in the energy sector. The development of energy resources, often located in politically unstable regions, requires forms of security provision, expert production techniques and equipment, vast sources of credit financing, and finally, specialist knowledge-based resources, both in a technical sense and in the wider sense of structuring the dominant norms and modes of international energy production (see chapter seven).

3. \textit{Transnational forces, states and world orders}

Given that energy affairs take place at the intersection of the transnational economy and the inter-state system, frameworks of analysis need to account for the interaction between powerful actors. Rather, it is suggested here that this view of state superiority is an open question for investigation rather than a sustainable \textit{a priori} assumption. One should think first in terms of power and then ask who has it. Indeed, focus need not be limited to states, companies and supranational actors alone. Lobbying organisations such as energy industry associations (Eurogas, OGP for example), civil society actors and various forms of insurance providers (\textit{inter alia}) can also be core actors depending on the question in hand (Keating \textit{et al}, 2012, p.4).
different politico-economic structures – each with its own discernible logic. The work of Robert Cox (1996) is useful here. Rather than focus on levels of analysis (that can entail a certain hierarchy in explanation), in his ontology of the global system Cox conceives of three “spheres of activity”, namely, the spheres of transnational social forces, the state and the world order (1996, p.101) (see fig. 2). Such a model lends itself well to studying the intersection of the transnational structure of the energy market, the inter-state structure and the political and economic structures of states themselves.

![Fig. 2: Cox's three interacting spheres of analysis. Source: Adapted from Cox (1996, p.101).](image)

It is important to outline the respective structural logics of each “sphere” as doing so facilitates useful incorporation of a number of paradigmatic traditions and bodies of literature. The sphere of world order is structured by anarchical logic of interstate relations, while the transnational level is structured (at least in the energy context here) by the logic of capitalist economic production and competition28 (Buzan et al, 1993; Cox, 1996, p.100; Bromley, 1991; Teschke & Lacher, 2010). As will be discussed further below, the state level is highly differentiated in terms of ordering logic as states’ internal logics vary. Nevertheless most states can be characterised as exhibiting logics that fall

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28 At the transnational level, it is also possible to distinguish between impersonal transnational market trends (of supply and demand for example) and particular powerful market players with whom states often must cooperate and thus who may both constrain and enable state behaviour at different times.
somewhere along both democracy/authoritarian and free market/state-controlled economy axes.

States’ domestic structures both shape their international actions and are in turn shaped by configurations of transnational forces (including, notably, in energy) and world order. It is important to stress however that states are affected by the ebb and flow of transnational forces and inter-state structures differently (Strange, 1995, p.63). Powerful states such as the US or China are of course affected by both transnational and interstate developments in energy. However, as noted in chapter one, smaller energy producers that are highly dependent on energy production, such as Azerbaijan for example, are profoundly affected by developments at both levels to the extent that their domestic political systems are strongly shaped by interactions with these structures.

Cox’s model both complements and is complemented by other approaches in International Relations theory. Neo-classical realism, with its focus both on the systemic structure and the domestic determinants of state action, provides insights into the state and world order level of Cox’s model (see discussion of Hyde-Price [2008] and Hill [1998] below). Furthermore, the transnational forces sphere of analysis is complemented by Keohane and Nye’s conception of complex interdependence that stresses the interaction of transnational forces and their impact on state behaviour (Keohane & Nye, 1989; see also Casier, 2011a). Taken together Cox’s three-way ontology of the relations between transnational forces, states and world orders provides scope for the utilisation of different theoretical insights from different paradigms to explain specific outcomes. Yet by seeing these three focuses of analysis as inherently interconnected, Cox’s model weakens the tendency to reduce explanation to just one or two of these spheres of interaction or to hierarchically order any of them a priori as analytical predominant. Furthermore, it

There are of course a number of definable logics that are specific to certain states or sub-groups of states such as varying degrees of democracy and relatively free-market economies in Europe or rentieristic economies and neo-patrimonial political structures in the Caspian region, for example (Franke et al, 2009).
presents the opportunity for the incorporation of transnational, state and supranational actors in the analysis of energy affairs, as consistent with the pluralist view of actors described above\textsuperscript{30}.

4. **Material and ideational factors**

The Coxian conceptualisation of interacting spheres outlined above draws attention to the importance of both material and ideational factors in the international system. Cox conceives of each sphere as being itself constituted by an amalgam of three different types of forces - material capabilities, ideational factors and institutions - which he refers to as a "historic structure"\textsuperscript{31} (Cox, 1996, p.97-99) (see fig.3).

\begin{center}
\textbf{Fig. 3: Coxian historical structures.} Source: Adapted from Cox (1986) and Gale (1998).
\end{center}

\textsuperscript{30} It should be noted that, from a theoretical perspective, not all of these actors need to be incorporated into the analysis at any one time. Some specific theoretical questions may warrant investigation of only certain sub-sets of these actors or interaction between two spheres. However, ontologically speaking, an effective framework capable of capturing a full account of international energy affairs is unlikely to be established without factoring in all of these spheres of analysis and the actors and sources of power they entail.

\textsuperscript{31} According to Cox, institutions represent a formalisation of ideas and material power that 'reflect the power relations prevailing at the point of origin and tend, at least initially, to encourage collective images consistent with this set of power relations' (Cox, 1986, p.219).
Cox's (1986, p.218) understanding of material capabilities refers to 'productive and destructive potentials'. This is the capacity to control or facilitate the production of the goods and services that different societies need as well as the potential to inhibit or (militarily) destroy this capacity (Gale, 1998, p.271). Ideational factors, by contrast, refer to the dominant normative contexts of a particular era. Cox (1986, p.218) makes a distinction between two forms of ideas. *Intersubjective* meanings are shared understandings about the nature of social and political interactions which perpetuate certain expectations of behaviour. These intersubjective ideas constitute the normative structures that individuals see as legitimate (Gale, 1998, p. 271). The second type of ideas that Cox (1986, p.218) identifies, *collective images*, refers to the differing images of social order held by divergent groups. Unlike intersubjective ideas that are defined by their commonly held nature, collective images "clash over legitimacy of existing power relations, the definition of a public good, and the meaning of social justice" (Cox, 1986, p. 272)\(^{32}\). In terms of energy, these notions draw attention to the importance of both material and ideational capacities (and their interaction) in energy affairs highlighting, for example, the role of control over material factors such as access to hydrocarbon reserves or offshore production capacity and ideational factors such as concepts of legitimacy in relation to how energy markets should be governed or the rights of foreign investors should be interpreted\(^{33}\).

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\(^{32}\) One can relate these aspects of Cox's notion of a historic structure to Strange's (1988) structures of power. Cox's material capabilities of production and destruction relate closely to Strange's structures of production and finance and security respectively. Likewise, Strange's notion of control over knowledge structures shares an affinity with Cox's conception of the dominance of legitimacy ascribing intersubjective ideas within a historic structure.

\(^{33}\) Likewise, in conjunction with Strange's notions of structural power, these ideas draw attention to the capacity of powerful actors to shape the respective interaction of forces in a given sphere of activity.
USEFUL THEORY: HEURISTIC THEORETICAL MODELS FOR THE STUDY OF EU
UPSTREAM COOPERATION IN THE CASPIAN

Having established the parameters of an eclectic politico-economic approach to
theorisation, this section turns its attention to the theoretical models utilised in this thesis
to explain different aspects of the EU’s external energy policy in the Caspian. This section
advances a series of models focusing respectively on: 1) the structural challenges of the
Caspian operating environment; 2) the EU role and objectives in upstream energy; and 3) the cooperation between EU institutions, member states and commercial energy actors.

These models are intended to serve a heuristic function. They are presented here not as
covering laws or deductive hypotheses, but rather as conceptual maps that simplify the
complex reality of Caspian energy politics by drawing attention to the major dynamics, actors and causal processes investigated empirically in the following chapters.

1. Analysing the structural challenge of the Eurasian operating context:
Territorial non-coincidence, politico-economic heterogeneity and natural
resource-based interdependence

One of the major obstacles facing the EU and European energy businesses in the Caspian region is what Murray (1971) has referred to as “territorial non-coincidence”. Territorial non-coincidence refers to the risks facing transnationally-operating companies derived from heterogeneity at the level of regulation, government practice, rules, norms and (commercial) rights between interdependent states. Murray argued that by the 1970s, the territorial expansion of the growing transnational economic system had long outgrown the national (or previously imperial) boundaries that had hitherto regulated it and that private transnationally-operating actors were challenged by forms of governance conditions that posed risks to their business operations (1971, p.85).
European actors face risks from such territorial non-coincidence in the governance structures and policy practices of states in the Caspian region. Indeed, while the EU and energy producing states of former Soviet Union are interdependent in energy terms, they nonetheless favour quite different forms of energy regulation to meet the needs of their different political systems (as discussed in chapter five). As noted in the previous chapter, increased instances of augmented state control and involvement are some of the biggest political risks from the perspective of energy businesses and one of the most strident areas of non-coincidence (Domjan & Stone, 2010; Kennedy, 2011). While these trends do not seem likely to abate, this context nonetheless represents the operating environment for European actors and the context in which European upstream Caspian energy policy is evolving.

The territorial non-coincidence in the Euro-Eurasian energy system is underpinned by two core interlocking factors. Firstly, the heterogeneity in political-economic systems across the Euro-Eurasian region, and secondly, the natural resources character of the independence across many states in the Former Soviet Union that exacerbates this heterogeneity. Each of these is addressed briefly in turn below.

For our purposes here, the Euro-Eurasian region (comprising the countries of the EU and the former Soviet Union) can be defined as a heterogeneous regional system (composed of two interdependent regional sub-systems) (Aron, 1966, p.100). Aron (1966, p.100) defines a heterogeneous system as one “in which the states are organized according to different principles and appeal to contradictory values”. The main dividing lines between the states of Euro-Eurasia fall along the axes of democracy/authoritarianism, market/state-controlled economic structures and rational-bureaucratic/neo-patrimonial domestic political structures. These notions are abstract ideal types and no state corresponds to any of these labels perfectly. Nonetheless, the EU states fall closer to the
democratic, rational bureaucratic and market economy end whereas the opposite can be said of most states in the former Soviet Union (including all Caspian states).

Energy plays a part in shaping these respective political and economic structures. Indeed, the energy sector has the capacity to fundamentally impact states’ domestic political systems. This is true for both energy exporting and importing states. Indeed, as Mitchell (2009, p.400) has shown, the political and economic character of Western-democratic consuming states has been shaped by their historically relatively easy access to and use of fossil fuels. The economies of Western industrialised states fundamentally rely on affordable energy supplies and by implication so do their elected political elites who are held directly and indirectly accountable for the impact of high prices (Chester, 2010, p.890; Bielecki, 2002, p.237). Likewise, consuming governments rely on taxes on petroleum products to finance a significant proportion of wider government spending (Bridge & Le Billon, 2013, p.114). In Mitchell's words “the leading industrialized economies are also oil states” (2009, p.400). Given the importance of energy to their political systems and economies, consuming countries seek to shape regional energy structures that conform to their need for affordable energy supplies (discussed in chapters four and five).

However, for resource-rich exporters, the natural resources sector is often the major source of economic activity and thus plays a much more direct role in shaping domestic politico-economic structures. The extent to which energy impacts on the development of political and economic institutions and practices in resource-rich countries is well-documented (as outlined in the in chapter one) (Gel’man & Marganiya, 2010; Franke et al, 2009; Ross, 2012; Collier, 2010). As Franke et al’s (2009) discussion of the "post-soviet rentier state" attests, corruption, neo-patrimonialism and informal politics combine with high resource rents to create a strong and regionally particular form of rentierism, resource curse and continued authoritarianism in the FSU. These forms of political
structure, exhibiting executive dependence on the energy sector and weak governance (in petroleum and elsewhere), tend to increase the risk of politically-motivated and unpredictable action in the energy sector. However, just as consumer states do, producer states seek to shape governance structures in energy that provide energy prices commensurate with their political economies, especially within their own borders where they have sovereign authority.

However, bringing the notion of interdependence back in, there is a cyclical dynamic at play here. Heterogeneity across Eurasia presents risks for diverse actors with different demands for energy outcomes, yet at the same time, the continuing transnational flows of capital from importers to exporters can exacerbate the resource curse trends that deepen this heterogeneity. Furthermore, from the perspective of companies and the EU, this diversity in political structures, when combined with ongoing interdependence, feeds into the territorially non-coincident structures and governance practices that present risks. Yet, the engagement of major Western energy operators, in facilitating the transfer of rents and investment from Western consumers to exporters serves to reproduce (in part at least) the very political systems that create these risks in the first place.

In sum, within an energy interdependent Euro-Eurasian energy context, territorial non-coincidence draws attention to the tensions between an interstate political system and transnational economic order, the risks this creates and, as discussed throughout this thesis, the consequent actions by governments and the EU to reduce these tensions and shape the system in line with their needs. These ideas form the backdrop to much of the analysis that follows in the subsequent chapters, providing conceptual insight into the motivations behind EU policy objectives and the challenges in the region.
2. Analysing the EU’s upstream role and objectives: Milieu-shaping and state economic functions

To analyse the EU role and objectives in the Caspian upstream, the thesis employs the notions of “milieu-shaping” (Hyde-Price, 2008; Smith, 2004; Wolfers, 1962; Keukeleire, 2003, p.47) and “state economic functions” (Smith, 2004; Junne, 1995; Murray, 1971). Informed by the work of Hyde-Price (2008), Zielonka (2006, p.105), Lavenex (2004, p.686) and Keukeleire (2003), this thesis sees the EU’s upstream policy as an effort to manage the risks caused by engagement with Caspian states through a (re)shaping of their politico-legal structures and political practices in line with EU interests (Hyde-Price, 2008, p.31; Wolfers, 1962, p.73). In the Caspian, the EU has both energy security and commercial/economic objectives, with core aspects of EU upstream policy both relating to the simultaneous pursuit of these interlocking interests and reflecting the multiple roles the EU plays in foreign policy (Smith, 2013a). Consequently, to capture both the security and commercial dimensions of the EU’s upstream energy policies, the analysis here is built on an incorporation of both realist and structuralist/neo-marxist notions of milieu-shaping in foreign policy traditionally concerned with actors’ security and “state-economic” interests respectively (Hyde-Price, 2008; Smith, 2004).

The EU as milieu-shaper

Presenting a broadly neo-realist analysis of EU foreign policy, Hyde-Price (2008, p.31) argues that regional powers (such as the UK and France) always have “an interest in shaping a benign international environment favourable to their first-order interests (primarily associated with their security and prosperity)”. In the context of European foreign policy, Hyde-Price notes how the EU fulfils this role by serving “as an instrument for collectively shaping the regional milieu” in line with these security and economic objectives [emphasis added] (Hyde-Price, 2008, p.31). This discussion of milieu-shaping

34 The diplomatic dimension of EU policy is discussed further below.
rests on Wolfers's (often neglected) distinction between milieu goals and possession goals in foreign policy (Wolfers, 1962, p.73; Hill, 2003, p.239; Keukeleire, 2003, p.46). An actor pursuing possession goals is, according to Wolfers (1962, p.74), aiming at the “enhancement or the preservation of one or more things to which it attaches value”. Because states will often value the same things, in doing so an actor will often find itself competing with others (Wolfers, 1962, p.74). For example, pipelines in the European periphery have the character of possession goals as they rely on the same sources of gas and service the same markets. If the EU were to have been successful in encouraging the building of Nabucco, then Russia would not have been able to build South Stream as they both rely on the same sources of gas and both service south-east Europe. By contrast, when states pursue milieu goals they are “not out to defend or increase possessions they hold at the exclusion of others, but aim instead at shaping the conditions beyond their national boundaries” (Wolfers, 1962, p.74). Governance frameworks in the Caspian have the character of milieu-goals as they are not designed to acquire particular possessions, but rather manage the way that things are done in the Caspian. While milieu-goals are almost certainly firmly in the interest of the actors that promote them, unlike possession goals, they can also match the interests of other actors because they are based on shareable principles rather than obtaining material objects (Wolfers, 1962, p.76).

However, as Wolfers (1962, p.74) and Smith (2004, p.80) note, milieu goals are by no means automatically universal. Rather their acceptance depends on the degree of agreement around the core principles on which they are formed. Furthermore, seemingly universal milieu governance principles can be a means of shaping the external environment so as to permit a more effective pursuit of possession goals (Smith, 2004, p.80). Indeed, the adoption of international, regional-level milieu-goals may merely shift the competition from the international level to competition for possession goals at the transnational level (from between states to between energy companies, for example).

Milieu goals are not distinct from possession goals on the basis of their normative or
ethical character but rather their *adverbial* nature. That is to say they are concerned with outlining, facilitating or restricting *the way in which things are done*, rather than what is obtained (Letwin, 2011; Oakeshott, 1975)\(^{35}\).

Within this line of argument, Keukeleire (2003, p.46-7) argues that the EU promotes a form of “structural foreign policy” in its periphery. Such a policy is aimed at shaping the long-term character of governance structures (both at the state and regulatory level) in third party countries in line, where possible, with EU policy objectives (Keukeleire, 2003, p.47). Similarly, but representing a more neo-realist argument, Hyde-Price (2006) links the EU’s pursuit of milieu-shaping to changes at the level of the international system and the security and economic challenges this poses for the EU. His essentially structural realist account of the development of EU foreign policy argues that EU cooperation in seeking to influence the common EU regional milieu is driven by changes in international structures of power that “shape and shove” EU member states and EU institutions into reacting to these changes in ways that will maximise EU security and economic objectives (Hyde-Price, 2006, p.219)\(^{36}\). In particular, the end of the Cold War, unipolarity and the perceived ‘drawback’ of the US from Europe and the European periphery has engendered a greater recognition of the need for European foreign and security policy cooperation to shape the regional milieu (Hyde-Price, 2006, p.229).

Hill (1998, p38-9) similarly expands four reasons to explain why EU member states might reach a coordinated position in foreign policy. Firstly, member states might come to a rational calculation that they can achieve more together than independently. Secondly, external demands such as an increasing regionalisation globally might drive European

\(^{35}\) While scholars of EU external relations sometimes laudably extol the normative milieu-shaping character of EU external relations and governance and (incorrectly) contrast it with more strategic, less benign foreign policy possession goals (Lavenex, 2004, p.694), they can underestimate the extent to which EU milieu-shaping efforts seek to establish frameworks and conditions in the EU periphery that serve the EU’s interests and the pursuit of possession goals by member states and private companies.

\(^{36}\) Hyde-Price asserts however that the way that EU reacts to these pressures is not determined by these structural forces, but rather depends on a “range of domestic political factors, including decision making competence, ideology and sectional interests” (2006, p.223).
member states together. Thirdly, evolutions in the international system might foster intra-European cooperation. Hill notes how, for example, EU cooperation could be precipitated by a decline in the US's capacity or willingness to underwrite European security or the emergence of a more threatening international system (1998, p.39). Finally, he suggests that a convergence of values could lead to a redefinition of national interests in line with more common European objectives (Hill, 1998, p.39). These four ideas are not mutually exclusive and could, of course, exist in combination in the context of EU Caspian energy cooperation37.

State economic functions: Making the European periphery safe for the energy industry

In the case of energy however, the realist account of EU milieu-shaping presented by Hyde-Price is complemented by structuralist/neo-marxist notions of "making the world safe for capital", especially in terms of the promotion of "state economic functions" (SEF) that are all essential to the effective operation of capitalist systems (Smith, 2004, p.79; Murray, 1971; Junne, 1994). For Murray (1971, p.87-8), all capitalist systems require political authorities to play a structural role to maintain the functioning of the system through the provision of certain public goods. Equally as the transnational economic system has shifted beyond the boundaries of the 'Western' world, the need for the extension of state economic functions has grown with it (see section on territorial non-coincidence above) (Murray, 1971, p.87). Indeed, Murray (1971, p.87) suggests that if the "performance of certain economic functions by a state body is a sine qua non of any capitalist system, the territorial expansion of that system will imply the need for the performance of state economic functions in the expanded territory". The energy industry

37 Arguments number one and number four presented by Hill (1998) could be seen to be mutually exclusive given that the former is based on rationalist assumptions and the latter on constructivist understandings. It is none the less the case that gradually converging values could lead to recognition of the possibility and rational benefits of cooperative action or (more likely from this scholar's perspective) that a rational appraisal of shared-interests could precipitate the form of interaction that develops shared or at least common values.
is no exception, relying heavily on the provision of state economic functions in all areas of its operations.

Below are a number of state economic functions that are particularly relevant (adapted from Smith, [2004, p.79] and Murray [1971, p.87]):

1. *The protection of property rights*: This refers to the way that political authorities work to develop “stable institutional and legal frameworks based on the identification and defence of ownership, and the negotiation of appropriate international agreements” (Smith, 2004, p.79). From the perspective of this thesis, it relates most strongly to the protection of property and investment rights enjoyed by energy companies (hereafter - SEF: protection of property rights).

2. *The provision of competitive advantage*: This function refers to the “creation of institutional and policy frameworks that structure economic space and activity in the interests of national or regional economic agents” (Smith, 2004, p.79). From the perspective of this thesis this relates to the creation of structures that provided a specific advantage for European companies operating in the upstream (hereafter - SEF: provision of competitive advantage).

3. *Protection against commercial disadvantage*: This refers to the way that political authorities seek to avoid distortions that might give an advantage to competitors. From the perspective of this thesis this refers to issues such as ensuring equal opportunities for investment or resisting regulations that place unfair burdens on foreign companies (hereafter - SEF: protection against commercial disadvantage).

4. *Contributing to collective autonomy*: This function refers to the “enhancement of the freedom of manoeuvre of national or regional economic agents, and recognition of the challenges to this” (Smith, 2004, p.79). From the perspective here, this relates most closely to resisting impediments to business action in upstream markets (hereafter - SEF: contributing to collective autonomy).
5. **Contributing to collective security**: This function refers to the provision of public order and security internally and externally (Smith, 2004, p.79). In the context of external energy policy, this relates strongly to the provision of public order as it affects the operations of energy companies (hereafter - SEF: contributing to collective security).

While the promotion of "state economic functions" is usually conducted by states, as Smith (2004, p.80) points out, they can also be performed by other political authorities - such as the EU. Indeed, Murray (1971, p.87) noted that these functions could be performed by a number of different actors acting in collaboration. As Smith notes (2004, p.79), international actors' claims to legitimacy and efficacy are increasingly based on their contribution to the provision of state economic functions. Indeed, it will be argued in the latter chapters of the thesis, that acceptance of the EU’s growing role in upstream energy policy relies in no small part on member state and energy company perceptions of the EU’s role in the provision of state economic functions.

As discussed in the previous chapter, these ideas relate to a structural conception of the interaction between political actors and the market that conceives of political authorities as the long-term guarantors of certain (capitalist) modes of production (Poulantzas, 1976, p.70). Governance frameworks promoted by the EU in its upstream energy policy are likewise particular models of production, in that they entail certain understandings of the roles and rights of certain commercial and political actors, in particular the rights and duties of commercial energy companies and resource-rich states towards each other (discussed further in chapters four and five). This in turn relates to an important aspect of European external energy relations in that, as will be argued in the following chapters, the objectives of EU external energy governance in the Caspian (as elsewhere) reflect an attempt to promote and sustain a particular, liberal, conception of energy production. Amongst the key objectives of this liberal production system is the management and
elimination of political risk, one of the core challenges confronting European energy businesses.\footnote{However, it should be noted that the structural practice of ensuring the general maintenance of a certain system of production is distinct from ensuring the specific interests of particular enterprises (Krasner, 1978, p.23) – a question returned to in chapter six in the context of the EU institutions’ desire to promote the overall European interest, rather than the particular interests of individual companies in foreign energy markets.}

*The indivisibility of security and economic milieu goals in the upstream*

The European objective of milieu-shaping, designed to establish and maintain certain state economic functions and modes of energy production, entails the concurrent promotion of both economic and security goals. As described further in chapter four, energy is a largely atypical part of the European security agenda given that, unlike most aspects of security, energy security is in effect provided by a nexus of commercial companies and political authorities (EU institutions and member states). Given this politico-commercial energy supply model, promoting state economic functions that seek to shape the regional milieu in Eurasia so as to ensure a reduced level of risk for market actors is a strategic priority for the EU member states and EU institutions and a clear example of the overlap of economic and strategic security objectives in energy. Furthermore, as will be discussed in chapter six, this intersection of the EU’s commercial and security objectives entails a clear overlap between the EU’s energy diplomacy and commercial diplomacy in areas such as the Caspian.

In sum, this thesis advances a model of EU external relations in energy that seeks to incorporate both the realist security-maximising and economic/commercial aspects of EU upstream policy. The liberal model of EU energy provision, where energy is supplied by commercial companies acting for profit, entails a blurring of commercial and security prerogatives. The conception of milieu-shaping outlined above seeks to capture these dynamics and the mix of commerce-facilitating, economic and security objectives promoted by the EU in its periphery. These concepts will be employed through the
subsequent chapters but most predominantly in discussion of the EU’s upstream role and objectives in chapters four, five and six.

3. Analysing EU upstream cooperation: Market-authority ‘bargains’, catalytic diplomacy and resource dependency

To analyse the relationships between European political authorities and market based actors in the Caspian, this thesis employs Strange's (1988, p.42) concept of an "authority-market bargain" (for an application of the concept to energy see also Goel, 2004), Hocking’s (2004a; 2004b) network-based conception of “catalytic diplomacy” and the notion of resource dependency from network theory (Eising, 2009). While network theory is traditionally employed to matters of public policy there is no reason why they cannot also be applied to matters of international relations/IPE (Hafner-Burton, Kahler & Montgomery, 2009). Indeed as Hafner-Burton et al (2009, p.582), have noted network analysis is “most useful in international relations when it is carefully married to existing theoretical and conceptual approaches” (such as Strange's [1988] notion of an authority-market bargain – see below).

The notion of an "authority-market bargain" focuses attention on the “balances of interest and power that allow a working set of bargains [in this case between companies and the EU] to be hammered out and observed” [emphasis added] (Strange, 1988, p.42). This model draws attention to both the ‘balance of interests’ (that is to say the perspectives of energy companies, member states and EU institutions on the challenges in the region and what is to be done about them) and the ‘balance of power’ (the respective resources provided by each set of actors on which the others rely), that characterise and underpin the European upstream political authority–market bargain in the Caspian. Strange (1988, p.39) argued that examination of the interdependent “bargains” between political authorities and commercial actors was one of the primary tasks of IPE as a discipline. The bargains to which Strange was referring are not necessarily consciously designed,
publicly stated or formal (although aspects are often formalised). Rather, she was alluding to the tacit understandings and interdependent structural power arrangements that characterise the interaction between political (and commercial) actors in the international system (Goel, 2004, p.478)\(^39\).

Hocking refers to the diplomatic expression of these interlinked relations between political and non-state actors (such as companies) as “catalytic diplomacy” (Hocking, 2004b, p.151). Hocking's conception of catalytic diplomacy rests on a conception of networks of (state and non-state) actors in foreign policy “with the [collective] capacity to contribute resources to the management of complex [international] problems, whether these assume the form of knowledge and financial resources or, less tangibly, the conferment of legitimacy on processes and outcomes” (Hocking, 2004b, p.151; see also Hocking & Smith, 2011). This increasingly open form of diplomacy is brought about both by globalisation and transnationalisation (as described by Murray above) and concomitant challenges that cannot be solved by state actors alone (Hocking, 2004b, p.151). Indeed as Hocking notes “confronted by ever more complex, multifaceted security objectives, there is a necessity [on behalf of a range of externally-operating actors] to establish policy networks of varying scope and composition, which bring together governmental actors, CSOs [civil society organisations] and business” (2004b, p.151).

 Detailed analysis of this networked EU-company bargain in the Caspian upstream is facilitated utilising Strange’s four structures of power (Strange, 1988; Goel, 2004) in combination with the notion of resource dependency, adapted from the literature on policy networks in public policy (Eising, 2009, p.131). As described above, Strange’s focus on different modes of power (security, financial, productive and knowledge-based\(^40\))

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\(^{39}\) In this sense these bargains differ from the explicit, official, often legally-binding and more static public-private partnerships commonly seen in public policy. While implicit however, the contours of these bargains nevertheless have a profound impact on international developments.

\(^{40}\) Strange refers to these as the primary structures of power. She also (1988, p.135) noted that there were a number of secondary structures of power (of which energy is one). She stressed however that these secondary structures were themselves constituted by the four primary...
draws attention both to the key sources of power and influence in energy politics and the fact that the control of some of these sources of power can rest with non-state actors, such as energy companies or the EU. Indeed, the roles played by different actors within a given market-authority bargain (such as EU-company catalytic diplomacy in the Caspian) can be analysed by investigating both the structural conditions of the bargain (that is to say the geo-political/geo-economic, production, finance and knowledge/ideational challenges in the Caspian) and the relative contributions that different actors (EU actors, member states and companies) make in turn to mitigate these structural pressures (Strange, 1988, p.25; p.39; Goel, 2004, p.478).

However, to capture the respective sources of power and consequent interdependence between European commercial and public actors, it is also fruitful to employ the concept of resource dependency from network theory (Eising, 2009, p.131). Resource dependency refers to the fact that networks of commercial and political actors (in energy for example) are often dependent on each other for the provision of certain (security, production, finance and knowledge-based) resources (Eising, 2009, p.131). Bouwen (2002, p.368) argues that EU public-private interaction is often based on "exchange relations" between interdependent organisations. Echoing Hocking (2004b, p.151), Bouwen suggests however that market-authority "exchange relations" in the EU are not uni-directional with influence flowing top-down from political to commercial actors (or vice-versa) (2002, p.368). Rather, within networks of European political and commercial actors, dependence often flows both ways with each actor controlling certain resources that they are able to exchange with others to achieve common objectives (Bouwen, 2002, p.368).

In the case of foreign energy policy, no actor, not even the US Government, can fully achieve their objectives without relying on resources provided by other actors. Referring to resource dependency, Bouwen, notes how "organisations become interdependent with structures (Strange, 1988, p.135). As such, to analyse a secondary structure, one needs to do so in terms of its primary structure components.
those organisations with which they interact” (2002, p.368). Furthermore, as Bouwen
(2002, p.368) suggests being interdependent means that “organisations can become
subject to pressures from those organisations that control the resources they need”. This
dependence, at least when (relatively) symmetrical, consolidates the tacit bargains
between networks of actors over time.

Informational exchange is a very substantial part of the resource dependence between
commercial and public actors and often a central feature of their interaction (discussed in
chapter seven) (Junne, 1994, p.98). As Eising observes, EU political actors often rely on
commercial actors as “a particularly important – and sometimes exclusive – source of
information” and for support in policy implementation, particularly in external
commercial relations (Eising, 2009, p.132). As they have only limited resources at their
disposal, the EU institutions are particularly dependent on expert knowledge in carrying
out their executive and legislative functions, relying heavily on external expertise
(Bouwen, 2002, p.369; Eising, 2009, p.131; Junne, 1994, p.98)\textsuperscript{41}.

In the case of EU upstream energy relations in the Caspian, companies and political
authorities are mutually dependent on each other’s resources\textsuperscript{42}. Companies provide the
bulk of the production knowledge, production capacity and financing necessary to exploit
overseas energy resources. EU institutions also rely on companies as an important source
of information on Caspian energy developments. The member states and the EU
institutions, particularly the Commission (in the form of DG Trade and DG Energy) and the
EEAS both provide political/diplomatic support for companies through direct energy
diplomacy and in the longer term seek to structure the conditions of external energy
policy in a way that is conducive to both their energy security needs and the commercial

\textsuperscript{41} Eising notes that in the EU, information can be considered as “political money” (2009, p.131).
\textsuperscript{42} While not discussed here, bargains of this resource interdependent sort are not at all exclusive to
the EU or the West. Producing countries in the Caspian for example demonstrate very complex
bargains between political and economic figures. Here deeper dynamics such as clan structures or
familial links that help bind these bargains are also at play.
objectives of companies, who ultimately produce and supply the energy. Neither can fully achieve their external objectives successfully without cooperating with the other. Analysis of these factors is undertaken primarily in chapters five, six and, especially, seven.

CONCLUSION

This chapter has sought to outline an eclectic conceptual framework useful for the analysis of EU upstream cooperation in the Caspian. The current theorisation of European energy policy, despite its strengths and success in explaining intra-EU discord, does not provide adequate models for the analysis of European energy cooperation in the Caspian. Responding to the calls of Keating et al (2012) and others, this chapter has outlined a politico-economic framework of analysis that formulates a more politico-economic framework for the study of energy affairs. In addition, the chapter has set out a number of heuristic theoretical models that help to explain the territorial non-coincidence challenges of the Caspian operating-environment, the milieu-shaping nature of the EU's overlapping political and economic objectives and role in the region, and the dynamics of EU's politico-commercial catalytic diplomatic cooperation in the Caspian upstream.

To complete the discussion of the methodological frameworks for this thesis, the next chapter briefly outlines the research methods employed in this study.
CHAPTER THREE

RESEARCH METHODS

This chapter discusses the data collection, data analysis and the research principles employed in this thesis. The chapter comprises three parts. The first outlines the research principles of internal validity, transferability and empathetic neutrality adopted in this thesis. This section describes the basis for claims to internally validity, but argues that the research is potentially transferable rather than externally valid (i.e. generalizable). The second section discusses the selection of the Caspian region as a case study example of EU upstream energy policy. The final section outlines the data collection and data analysis methods employed in the research, highlighting the model of triangulation adopted and discussing the development of the research frameworks for this thesis. Challenges encountered during the research are raised, where applicable, throughout the chapter.

VALIDITY, TRANSFERABILITY AND EMPATHETIC NEUTRALITY

Different approaches to academic research often entail divergent understandings of what constitutes systematic, rigorous analysis (Robson 1995, p.402-3; Lincoln & Guba, 1985, p.37-8; Seale, 1999, p.43-5). The traditional notions of internal validity, external validity (generalisability) and objectivity associated with much quantitative and positivist qualitative research are often challenged by those from more hermeneutical positions on the grounds that they may not be applicable in the case of qualitative inquiry (Lincoln & Guba, 1985, p.37). Indeed, many qualitative researchers challenge positivistic assumptions about the existence of a single reality, independence between the object and subject in

43 Just as the analytical framework and theoretical models delineated in the preceding chapter are consistent with the critical realist philosophy of science as presented in annex one, so too are the research methods presented here (particularly the notions of epistemological relativism and judgemental rationalism).
research as well as the supposedly time, context and value free nature of scientific postulations (*inter alia*) (Lincoln & Guba, 1985, p.37).

However, the critical realist approach to the philosophy of social science adopted in this study (see annex one) shares aspects with both positivism (the acceptance of an independent reality) and more interpretive approaches (transfactualism, the idiosyncratic nature of explanation and the impossibility of perfect objectivity). As such, this section addresses the questions of validity, transferability and neutrality and offers a middle way between the positions outlined above.

**Internal validity**

Internal validity refers to the degree of confidence that one can have in the causal assertions made about a given piece of research (Trochim, 2006). This thesis adopts an ontologically realist approach and thus perceives of an independent knowable (but not necessarily observable) reality and a concomitant desire to aim for a (probably ultimately impossible) separation between the researcher and their research. As such, it holds that it is possible to make valid inferences about causal relations within this external empirical reality. However, the practice of collecting and interpreting qualitative data, presents ample opportunity for biases to interfere with the validity of one’s causal claims (Robson, 1995, p.402). This thesis uses a number of methods to seek to ensure validity in its inferences about Caspian energy affairs, namely triangulation, member validation and peer debriefing.

Triangulation involves employing a number of different “methods at once so that the biases of one method might be cancelled out by those of the others” (Seale, 1999, p.53). Robson (1995, p.383) argues that triangulation is “particularly valuable in the analysis of qualitative data where the trust worthiness of the data is always a worry”. During the research for this thesis, methodological triangulation was adopted by employing different
kinds of data collection techniques and comparing across data collected (interview data and public documentation). This has the benefits of collecting both the instant reactions to questions from interview participants and the more considered opinions of different actors available in documentation. This data has however also further been triangulated with personal experience from a five-month In-service Traineeship in the Central Asia Division of the EEAS. This experience provided an opportunity to triangulate data received from other sources with practical experience ‘on the ground’.

Furthermore, both as part of the triangulation process and as internal validity measures in their own right, this thesis also engaged in member validation (Seale, 1999, p.61) and peer debriefing (Robson, 1995, p.404). Member validation involved discussing my findings and ideas in off the record, confidential conversations with individuals involved in the processes under investigation (most notably EU officials). These discussions allowed people to reveal and discuss information that they would not have revealed in formal interviews and allowed franker discussions of issues related to my research than would otherwise be possible. Correspondingly, they provided a useful opportunity to test ideas and arguments in the presence of those in a capacity to challenge them. No information in this thesis is derived directly from these discussions, yet they provided a useful form of validity assurance. Secondly, peer debriefing, the seeking out of disinterested opinion on one’s work, was undertaken by submitting my work to review both through conference presentations and by submission to academic journals throughout the PhD enrolment.

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44 This ‘blue-book’ traineeship (won through open competition) was conducted in Brussels between March and July 2011. It involved paid, full-time work embedded with the EEAS Central Asia Division. The role of the author was to conduct research, write briefings, monitor international press and academic outlets, to prepare for meetings and public events and various other policy-orientated administrative tasks.
45 As outlined in the front matter of this thesis.
**Transferable but not generalizable**

While this study strives for internal validity it does not expect the same of external validity (generalizability). It is not possible to extrapolate from the research findings in this thesis and assume they will apply in other geographical areas. The distinctive nature of particular contexts in qualitative research makes generalizability from a particular case problematic as the broader representativeness of a single case study or small number cases cannot be guaranteed (Seale, 1999, p.107). Indeed, the non-sample based single case-study approach of this research makes generalization impracticable as one cannot claim that this case study is representative of a broader collection of cases (Robson, 1995, p.405).46

However, the research presented in this study may well prove transferable to other contexts that demonstrate similar dynamics, and that arguments and models derived from this work may well be suitable for investigation in similar situations47 (Lincoln & Guba, 1985, p.297-298). While this thesis does not directly investigate the degree of transferability of the ideas presented here to other areas, several potential areas for transferability will however be discussed in the conclusion.

**Empathetic neutrality: Avoiding bias**

There are numerous ways that research can be biased by the researcher (Lincoln & Guba, 1985, p.38). Any piece of research can be affected by: a) the inquirer’s values; b) the research paradigms that the researcher chooses; c) the values inherent to the theories adopted; and d) the values inherent to the context in which the research takes place (Lincoln & Guba, 1985, p.38). In keeping with the view of judgemental rationality outlined

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46 This, incidentally, is compatible with the idiosyncratic nature of causality as understood by critical realism. The fact that specific causes interrelate in a contingent fashion in given cases makes generalisation difficult as the exact causes and antecedent conditions in other circumstances may be different (see annex one).

47 The contexts that present the most suitable environment for further investigation of EU external energy governance are other energy-rich regions, geographically proximate to the EU, such as North Africa.
in annex one, a position of empathetic neutrality was consciously sought during the research. Empathetic neutrality involves deliberate recognition of the inherent subjectivities of research and a consequent conscious desire to try to overcome these subjectivities by addressing the research context with empathy whilst at the same time seeking to remain non-judgemental (Vromen, 2010, p.257).

In this sense, the position adopted concurs with that recommended by Hedley Bull (2000). Bull suggested that research in IR should be conducted in a spirit of "political objectivity or detachment" (emphasis added) (Bull, 2000, p.260). However, he also recognised that this was extremely difficult in practice and given that there is "no such thing as value-free inquiry into International Relations or any other social subject" the best position was to aim for political objectivity even if it is not “something we can expect fully to achieve” (Bull, 2000, p.260).48

Several measures have been undertaken so as to guard against distortion of the research through the influence of unseen values. The first, to guard against inherent Euro-centrism, involved discussions with Central Asian contacts so as to seek to understand the context of that region through their eyes. The second was partaking in the Institute of International Relations Summer School in Tinos, Greece (2012) where a two-day session with Christian Reus-Smit and Nicholas Onuf was devoted to the role of values in theory and meta-theory. Thirdly, constant critique of the positions adopted by the researcher was necessary to guard against the risk of adopting the values of context, particularly while at the EEAS. Conducting a traineeship there, whist highly beneficial for the research, presented a risk of implicitly adopting the values of context, especially as the researcher was reliant on the EEAS for training and information. However, the equally self-reflective attitude of almost

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48 Indeed, Bull felt that “the most one could hope to do is to be aware of one’s moral and political premises, to formulate them explicitly if one is employing arguments that derive from them, and (this above all) to be critical about them, to treat the investigation of moral and political premises as part of the subject” (Bull, 2000, p.260).
all of the people encountered at the EU made mitigating this risk far less difficult than anticipated.

**CASE STUDY: THE CASPIAN REGION**

The case study of the Caspian region has been chosen for *intrinsic* and *instrumental* reasons\(^\text{49}\) (Silverman, 2005, p.127). *Intrinsic* motivations for case study selection relate to the particular characteristics of the case, whereas *instrumental* motivations concern the broader insights that can be gained beyond the case study in question (Silverman, 2005, p.127). As described in the previous chapter, the EU’s external energy policy is under investigated in the Caspian region. This fact combined with the increasing importance that is attached to this region by the EU and the wider importance of the regional with regard to energy developments, provides intrinsic justification for the selection of the Caspian as a case study area. However, in terms of instrumental reasons, the case study serves as locus for the investigation of the theoretical aspects of the EU’s external energy cooperation as described in the previous chapter. Secondly, the challenging nature of the environment and the important energy stakes, all provide the right context for an evaluation of EU upstream energy practice. Thirdly, as noted above, it serves potentially to provide some transferable findings regarding energy relations in the EU periphery. Finally, investigating a region of this strategic importance in terms of energy provides insights into the developing character of the EU’s evolving external energy policy more broadly.

\(^{49}\) There are several reasons behind the decision to adopt a case study methodology. Firstly, case studies allow for the collection of rich amounts of data and permit an in-depth study of a phenomenon. They are useful, as is the case here, where cross-case data collection is difficult. Secondly, case studies allow for multiple forms of data to be brought to bear on a particular case (as discussed in the next section) thus permitting the triangulation between these data sources (discussed above). Thirdly, case studies are useful in IR where there are regional specificities that impact on the outcomes in a particular case – again as is the situation in the Caspian. Of course, as described above, it is highly likely that the findings from this case study will prove transferable to other contexts.
DATA COLLECTION AND ANALYSIS

This thesis relied on a mixed data collection strategy with data gained from (and triangulated between) interviews with selected elite participants from the EU institutions (European Council, Directorate Generals Energy, Trade and DEVCO, the EEAS in Brussels and the Astana Delegation, Office of the EU Special Representative for Central Asia, the British and German governments, Kazakh Government, Samruk Kazyna [the Kazakh state holding company that owns the national oil company Kazmunaigaz], British Petroleum, the Open Society Institute and the Energy Charter Secretariat) and documentary data sourced from member state and energy company responses to EU public consultations, energy company annual reports and official Commission, Council and EEAS documentation. A full list is available in annex three.

Interviews were obtained primarily through building up personal contacts and the snowballing technique. This was significantly facilitated by the traineeship undertaken at the EEAS. In hindsight, conducting this research without this traineeship would have been difficult. Interview participants were, unsurprisingly given the sensitive issues they work on, often hesitant to release detailed information. Attempts to gain interviews through direct contact without an introduction from a previous contact were unsuccessful in most cases. Overall, obtaining interviews with EU officials was considerably easier than member state and energy company officials – largely due to having undertaken the traineeship at the EEAS and having built up contacts there.

These challenges however, underline the importance of the interviews conducted. Given the sensitivity surrounding the topic, only limited amounts of information are publically

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50 Negotiations, ultimately successful, between the EEAS, Commission and member states as to whether or not to grant the Commission a negotiating mandate for a trans-Caspian pipeline were on-going at the time of the traineeship and many people working on this issue were quite concerned about information being released. This added to an understandably cautious approach to speaking with outsiders (of which the researcher was still one despite doing the traineeship). After this period had passed, a more open approach was benefitted from during the latter rounds of interviews.
available on EU external energy policy, especially on relations between public and private actors. Interviews were therefore an essential part of this research as they enabled access to individuals in a position to comment on European upstream energy developments and yielded data that was not available publically - adding to the research contribution of this thesis.

Extensive notes, rather than recordings, were taken during interviews. This was due partly to participants’ concerns over being recorded and the risks of any divulgence or misappropriation of information being attributed to them. As discussed below, this had implications for the data analysis of interviews. Many respondents were uncomfortable with recording and many stressed that they would be limited in what they could discuss if interviews were to be taped. A decision was made early on that recording interviews came second to obtaining good data. Informing participants that interviews would not need to be recorded also increased the number that was happy to take part in the study. However, extensive notes were taken during all of the interviews and they present an accurate representation of what was discussed (but of course not an exact *verbatim* record).

Interviews were conducted in four rounds. The first pilot interviews were conducted during the traineeship in Brussels (in July 2011). The second round was conducted in Brussels in May 2012. The third round was in Astana, Kazakhstan in August 2012 and the final, smaller, round was conducted in November 2012, again in Brussels.

The approach to interviewing adopted was that of semi-structured interviews. This provided a guide for the interviews and a “checklist” of what needed to be discussed (Robson, 2011, p.301). It also provided the scope and flexibility to adapt questions, ask unplanned questions and respond to participant's comments as and when necessary. This proved to be an effective strategy as participants would often discuss information that was not originally expected but that nonetheless provided highly useful insights into the topic matter.
Beyond research interviews, the study also relies extensively on document sources. Documentation, the majority of which is available on the internet, is derived from four major sources. The first is public consultations on EU energy policy including the public consultation for the 2006 Green Paper on EU energy policy and the 2011 public consultation on the external dimension of EU energy policy. For additional documentary insights from companies (particularly relating to company risk) a number of annual reports and submissions to financial authorities (the New York Stock Exchange and the French Financial Authority) were examined. Thirdly, speeches from EU Commission and Council officials were also analysed. Finally, official documentation from the EU (Council, Commission and EEAS) was also extensively analysed. Annex two presents a full list of documents analysed.

Using sources of this nature raises the question of whether they represent an accurate portrayal of the different positions of respective member states and energy companies. This is of particular importance given the reliance on this type of data for insights into energy company and EU member state positions. Despite the fact that these documents are undoubtedly often written with political purposes in mind (indeed these political objectives are discussed in chapter six), there are several reasons, after having analysed them, to suggest that they represent a relatively accurate picture of perceptions and beliefs of the various actors. First, documents frequently both contradict and support EU official positions suggesting that they are not mere platitudes. Second, often these documents (such as the submissions to EU public consultations) are an opportunity for companies or member states to get their distinctive positions across publicly. Third, inaccurate or false responses could be used against actors in the future. Fourth, similar objections/positions are often raised independently by similar actors. Fifth, in some cases (such as the risk assessments discussed in chapter five) legal obligations compel companies to present information accurately to the best of their knowledge. Sixth, the
positions presented in documentation align with what would be expected from theory. Finally, stated positions also triangulate with the data collected from interviews.

**Data Analysis**

The approach to data analysis in this thesis is that of *qualitative content analysis*. Qualitative content analysis refers to a number of different techniques used to analyse qualitative data ranging from “qualitatively-orientated quantitative techniques” that measure instances of certain *uses* of language to purely qualitative methods that seek to analyse the informational content of data for detail and meaning rather than specific measurement (Forman & Damschroder, 2008, p.41; Hsieh & Shannon, 2005, p.1277). Indeed, as Forman and Damschroder suggest (2008, p.41), in contrast to *quantitative* content analysis the objective of most qualitative approaches is to understand a phenomenon rather than produce generalisations based on statistical inference (Forman & Damschroder, 2008, p.41). Likewise, Zhang and Wildemuth (2009, p.1) assert that the qualitative content analysis of data "goes beyond merely counting words or extracting objective content from texts to examine meanings, themes and patterns that may be manifest or latent in a particular text" in that it allows researchers to "understand reality *in a scientific but subjective manner*" [emphasis added].

The particular forms of qualitative content analysis employed here are *conventional content analysis* and *directed content analysis* (Hsieh & Shannon, 2005, p.1279-83). Conventional content analysis is used generally “to describe a phenomenon” without preconceived ideas (Hsieh & Shannon, 2005, p.1281). This involves the researcher immersing themselves in the data to "allow insights to emerge" (Hsieh & Shannon, 2005, p.1281). This type of data analysis is particularly useful when theory is underdeveloped.

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51 By adopting these two approaches this methodology shares a lot with grounded theory in the sense that the conventional stage described below was in effect a form of “theoretical sampling” whereas the latter, directive, stage represents a form of grounding of theory in empirical reality (see Seale, 1999, p.92-96).
and research on a phenomenon is at an underdeveloped stage (as is the case in terms of Caspian upstream cooperation). This form of analysis was used primarily in the early stages of data analysis and during the traineeship in Brussels. While the broad politico-economic ontology outlined in section two of the previous chapter has been researched and developed at this point and thus helped to guide the initial empirical research, the theoretical models that best explained the various dynamics under investigation (outlined in section three of the previous chapter) had not been selected. As such, this form of immersive, data analysis was used to decide which theoretical models were most useful and which models could be combined (such as structures of power and resource dependency and the various discussions of milieu shaping) to explain the different dimensions of the EU’s upstream policy and cooperation.

By contrast, the goal of directed content analysis is to “validate or extend conceptually a theoretical framework or theory” (Hsieh & Shannon, 2005, p.1281). Existing theories and frameworks, Hsieh and Shannon note (2005, p.1281), can be used to focus research questions via directed content analysis and coding of the data. As Hsieh and Shannon note (2005, p.1283) the main benefit of directed content analysis is that “existing theory [in this case derived from the conventional content analysis in the early stages research] can be supported and extended”. Indeed, while the gradual development of the research frameworks is not explicitly presented in the thesis, these two forms of analysis were employed diachronically and in an evolutionary fashion over the research period. Having used the conventional content analysis to help devise the theoretical models described in the last chapter in the earlier stages of research (in conjunction with the existing IPE literature), the directed form of analysis has been applied to the data collected in the later stages to provide further evidence for and examples of these theoretical models.

However, it should be noted that while these approaches have been used in relation to both the documentary and interview based data, the use is more problematic with regards
to the interview data. This is because this data is not an exact *verbatim* account of what was said but rather is based on (albeit extensive) notes taken during the interviews. As such it is not possible to analyse this text in the same level of depth in terms of discourse analysis as would be the case had the interviews been recorded. Nevertheless, this information is highly valuable in that it presents detailed information on the subject matter, much of which is not available in the public domain. Furthermore, the data can still be analysed in much the same way as the textual data, i.e. via coding, the looking for patterns, a source for the validation of theory and ultimately to shed light on the empirical reality of EU upstream energy practices in the Caspian.

**CONCLUSION**

This chapter has outlined the methods employed in this thesis. The chapter began by setting out the core principles of internal validity, transferability and empathetic neutrality. The claims to validity made here are premised on methodological triangulation. Collection of different forms of data as well as peer-debriefing and member validation have been undertaken to ensure internal validity. The first section above also discussed how the research findings from this thesis are idiosyncratic and not generalizable. Nonetheless, it suggested how they are likely to be transferable to other contexts – as discussed further in the main conclusion (chapter eight). Lastly, the first section discussed the approach of empathetic neutrality, particularly important given the research done while conducting a stage at the EEAS.

The second section described the intrinsic and instrumental motivations for the selection of the Caspian region case study. Intrinsically speaking, a combination of the fact that the EU's upstream energy policy in the Caspian is under-researched and the weight that the EU itself attaches to this region provide justification for the case study. Instrumentally, the case study provides an interesting venue for theoretical development, presents
transferable findings that could be employed in other energy-rich areas and provides insights into the EU’s developing external energy policy.

Finally, the last section outlined the data collection and analysis methods employed. It examined the different sources of data used (interviews and documentary sources) and highlighted the strengths and the challenges posed by these forms of data. The final part of the chapter outlined the data analysis methods. It stressed how the data was analysed through conventional and directed content analysis and how, while the theory and research findings are presented in a synchronic sense in this thesis, the actual research process progressed in an evolutionary fashion with frameworks and theory formulation developed in interaction with initial data and then, once refined, (re)applied to old and new data to unearth research findings.
CHAPTER FOUR

POLITICAL RISK AS ENERGY SECURITY RISK: EU OIL AND GAS DEPENDENCE AND THE UPSTREAM RISK MITIGATION ROLE IN EU ENERGY STRATEGY

This chapter presents the milieu-shaping risk mitigation role of the EU in the Caspian upstream. Overall, the chapter makes two core arguments. Firstly, it demonstrates how, in line with the observations of Güllner (2008, p.150), the EU's external energy policy is best thought of as a response to potential risks (as well as extant threats). Secondly, it highlights how the EU is heavily reliant on (often a small number of) companies in upstream markets and how this dependence creates a strong overlap between the political risks that these companies face and EU upstream security of supply objectives. In doing so, this chapter demonstrates the overlap between the EU's realist security-maximising and economic commerce-facilitating milieu-shaping activities.

This chapter does not set out to argue that the mitigation of political risk is the only role that the EU plays in Caspian upstream, nor that the EU is able to respond effectively to all political risks. Rather, it argues that political risk mitigation and market facilitation is the EU's most important role in terms of fostering European politico-commercial upstream cooperation and a central feature of the EU’s emerging upstream milieu-shaping role and objectives.

The chapter is structured into four sections. Following the work of Corry (2010) and Kessler and Daase (2007), the first section highlights the distinction between risks and threats as different forms of danger and notes, in particular, how risk can be mitigated in
advance rather than just reacted to. Secondly, based on discussions with EU officials, the chapter examines the EU’s security of supply risk mitigation strategy based on managing the risks entailed by EU dependence on producer countries (source risk) and transit states (route risk) and the less-discussed reliance on companies (counterparty risk). It argues that the EU manages both the potential impact and the likelihood of risks caused by these dependencies through three tactical measures: 1) diversification of the actors on which the EU is reliant; 2) the promotion of risk-mitigating energy governance; and 3) energy dialogue and diplomacy. Given the focus of this thesis on politico-commercial relations, this section (and the chapter as a whole) focuses predominantly on the last of the EU’s dependencies – counterparties - outlining the reliance of political actors on the European (and more broadly Western) upstream-operating commercial sector.

The third section presents some of the core political risks present in the Caspian Sea region. The chapter concludes with a fourth section examining the convergence between EU institution, member state and energy company perceptions of energy risk, noting how political risks and market hindrances in the upstream (especially investment and market access risks) represent the strongest area of risk perception convergence between European political actors and energy companies. While this risk-perception convergence does not guarantee upstream cooperation between EU actors it is, as argued here, a necessary condition of their cooperation.

RISK AND EXTERNAL ENERGY POLICY

As noted in the introduction, despite calls for attention to risk in analysis of EU external energy policy (Güllner, 2008, p.150; Egenhofer & Legge, 2001), the risk mitigation dimension of EU external energy policy (and political risk mitigation in particular) is under-investigated in the EU energy literature. By contrast, in the wider social science literature, the management of risk is increasingly recognised as an important public and foreign policy objective (Chertoff, 2008; Jarvis & Griffiths, 2007; Petersen, 2011). This
section briefly highlights the connection between risks and threats before the major security of supply risks facing the EU are discussed in the next section below.

**Security: risks and threats**

A number of scholars argue that the practice of contemporary security policy has shifted from balancing against clear identifiable threats (such as the Soviet Union during the Cold War) to the management of uncertainty and risk (Daase, 2007, p.4; Kessler & Daase, 2012; Güllner, 2008, p.150). In both cases the potential danger may be the same, but the major difference surrounds the level of knowledge - or the epistemological status - one has regarding a particular danger (Kessler & Daase, 2012, p.413). Threats, in this formulation are ‘known knowns’52 – the dangers that an actor knows exist and can identify as immediate dangers. Risks, by contrast, are ‘known unknowns’ – the dangers that actors know are possible, but where there is uncertainty as to how likely they are or when they will manifest. Kessler and Daase (2012, p.414) argue that “where factual knowledge [of a potential threat] is partial, yet methods exist for reducing the uncertainty, we might speak of security risks”. Daase (2007, p.3) and Bremmer and Keat (2009, p.4) both argue that the level of risk is derived from a combination of the likelihood of an event and the magnitude of its impact should it occur (i.e. risk = likelihood of occurrence x magnitude of impact). As will be described below, EU foreign policy actions can reduce risk by addressing both parts of this equation, that is to say by both diminishing the potential impact of a negative event (should it occur) and by reducing the likelihood that it will occur.

For Corry (2010), risk and threat represent different logics of security, securitization and security practice. Both of these approaches to security coexist in reality, but as Corry (2010, p.3) suggests “analytically it is useful to be able to distinguish and study how the two relate to each other”. In terms of energy, while it is entirely possible that actors will face particular identifiable threats (such as the use of energy as a weapon), much of

52 To coin Donald Rumsfeld (Kessler & Daase, 2012).
EXTERNAL ENERGY POLICY IS, AS GÜLLNER SUGGESTS (2008, P.150), BETTER CHARACTERISED AS THE MANAGEMENT OF POTENTIAL RISKS.

A MAJOR DIFFERENCE BETWEEN THREATS AND RISKS RESTS IN HOW ACTORS ( SHOULD) RESPOND TO THEM. WHEN A DANGER MANIFESTS AS A THREAT IT REQUIRES A REACTIVE APPROACH TO BE CONTAINED AND CAN (AT LEAST IN THEORY) BE ELIMINATED QUĀ THREAT (CORRY, 2010, P.11). A MILITARY ADVERSARY INTENT ON WAR, A TERRORIST ATTACK IN THE FINAL STAGES OF PLANNING OR AN ORGANISED CRIME GROUP CONDUCTING A HEIST MAY WARRANT A DIRECT REACTIVE RESPONSE. BY CONTRAST, WHEN DANGERS ARE PRESENT AS POTENTIAL RISKS THEY CAN BE MITIGATED IN ADVANCE AND THUS REQUIRE PROACTIVE POLICY MEASURES (CORRY, 2010, P.11). AS WILL BE DISCUSSED BELOW AND THROUGHOUT THIS THESIS, THE EU RESPONDS BOTH PROACTIVELY AND REACTIVELY TO RISKS (AND THREATS) TO THE ENERGY INDUSTRY IN THE CASPIAN UPSTREAM.

EU SECURITY OF SUPPLY RISKS AND (THE ‘THIRD’) DEPENDENCE ON THE COMMERCIAL SECTOR


HOWEVER, THIS DEPENDENCE ON IMPORTED OIL AND GAS IN FACT ENTAILS THREE DIFFERENT FORMS OF SECURITY OF SUPPLY DEPENDENCY AND CONSEQUENTLY EXPOSURE TO THREE DIFFERENT FORMS OF ASSOCIATED RISK. INDEED, AS WILL BE ARGUED FURTHER BELOW, THE EU AS A WHOLE IS EXPOSED TO RISKS DERIVING FROM DEPENDENCE ON 1) OIL AND GAS PRODUCING STATES (SOURCE RISK) 2) TRANSIT...
states (route risk) 3) the commercial energy sector (counter-party risk). As described in chapter one, the first two of these risks (and the subsequent challenges of formulating a common European response) are well-discussed in the EU external energy policy literature (although the explicit risk mitigation character of these dimensions is less-discussed). However, the latter risk - dependence on the commercial sector - is rarely mentioned in either the external energy policy literature or by the EU institutions themselves. However, as will be described below, it is this dependence on the energy sector that helps to explain both the EU’s efforts to mitigate upstream political and investment risk and the cooperation between European political and commercial actors in the Caspian.

Before examining the various risk-dimensions of EU dependency on foreign oil and gas and the EU response, it is necessary to briefly discuss the terminology of strategy and tactics employed. Strategy, as Posen (2001, p.42) notes, “lays out an interlinked chain of problems that must be solved to address [an] ultimate problem”. Rumelt (2011) argues that a comprehensive strategy contains three components: first, an accurate diagnosis of the challenge/problem that the strategy seeks to address (i.e. in this case the EU’s external dependence on imported energy); second, a range of strategic policy objectives that guide the action necessary to confront this challenge; and third, an effective strategy must combine these two factors above with coherent tactical policy measures that put strategic objectives into effect. Consequently, the term ‘strategy’ is used here to refer to overarching EU efforts to address the EU’s respective external energy dependences, while the concept of ‘tactics’ refers to the actual policy measures that operationalize these strategic objectives in practice.

53 Interview EU Official [24], Brussels, Summer 2012
54 For exceptions see Egenhoffer and Legge (2001, p.3) and Stoddard (2013, p.352).
Managing dependence in EU foreign oil and gas strategy: Diversity, governance and diplomacy

In interviews, EU officials note that at a strategic level, EU security of supply policy seeks to manage three areas of overseas supply risk: dependence on sources (producer countries such as Kazakhstan and Russia); dependence on routes (transit countries such as Ukraine and Turkey); and dependence on counterparties (supplier companies such as BP, Shell, Total etc.). It is important to remember, especially given the impersonal language of routes, sources and counterparties that these three dependencies refer to actors. Indeed, the impersonal term ‘counterparties’ refers in any given case to a set of companies that can be quite small and very influential in their own right. In Kazakhstan, for example, the counterparties that have invested in Kazakhstan’s three major oil and gas projects are a small group, numbering only nine firms (of which four are European) (see table two - page 235).

Tackling each of these dependencies and reducing the respective risks involves a number of different tactical measures. Most prominently, these include 1) diversification of actors on which the EU relies, 2) the promotion of EU and/or international governance rules that help to meet the EU’s basic energy policy objectives and 3) energy diplomacy and dialogue with each of the three sets of actors (producers, transit states and companies). While they

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55 There is a fourth dimension here which is reducing the level of demand inside the EU (which lessens overall dependence on external energy sources). Likewise there is a fifth dimension - reducing demand in other major consuming states or states with very high projected demand growth rates (including energy producers). This reduces pressure on the external supplies that the EU needs. These dimensions have been referred to by Bridge and Le Billon (2013, p. 80) as “demand destruction” to refer to efforts by oil importing states to encourage reductions in domestic and overseas oil use for demand and price motivations (as well as to reduce climate change emissions). However, while important, they are beyond the focus of this thesis.

56 Interview EU Official [24], Brussels, Summer 2012
can be analytically separated and discussed in isolation, in practice, these three tactical measures are interlinked and mutually supportive.\footnote{For example, promoting competition and market access through the extension of governance institutions (point two above) such as the Energy Charter or Energy Community Treaty diversifies the base of counterparties in a given market (point one above – see also below).}

Importantly, as will be shown below, these approaches involve the \textit{proactive} reduction of risk by respectively mitigating both the \textit{impact} of disruption (diversity) and the \textit{likelihood} of disruption (governance and diplomacy). Both energy governance and diplomacy also in turn present the opportunity for the \textit{reactive} resolution of threats.

\textit{Reducing risk impact: Diversity}

One of the basic rationales behind EU security of supply risk mitigation policy lies in the contention that the greater the diversity of sources, routes and counterparties, the lower the risk to EU security of supply.\footnote{Interview EU Official [24], Brussels, Summer 2012 – it should be noted that fuel type is also an additional form of diversification but given the focus on oil and gas security (and not the broader \textquote{energy security}), this form of diversification is not discussed here.} The importance of this model of energy supply security was first articulated by Winston Churchill in 1913. On the eve of World War One, Churchill noted in Parliament that \textquote*{on no one quality, on no one process, on no one country, on no one route, and on no one field must we be dependent … Safety and certainty in oil lie in variety and variety alone} \cite{Yergin2011}. As \textcite{Walde2011} has noted, Western energy consuming countries promote investment across a range of countries so as to diversify their supply, reduce dependence on \textquote*{volatile OPEC nations}, reduce prices and reduce OPEC's share of world oil production. Specifically in the European context, the same is equally true for Russia. Indeed, \textcite{Walde2011} notes that \textquote*{almost all oil producing countries are for a variety of reasons high-risk}. As such, Western consuming countries such as the EU's member states \textquote*{cannot but pursue policies of diversification} \cite{Walde2011}.

Variety and diversification of sources, routes and counterparties however does not entail reducing risk by reducing the overall level of dependence on imported oil and gas or by
making a disruption less likely, but rather by spreading the risks of dependence amongst multiple actors. When supply is diversified enough between different sources, routes and counterparties then a deliberate or unintentional disruption will have little overall effect. Indeed, the likelihood of a disruption is not necessarily reduced by diversification, but the magnitude of a supply disturbance is minimised.

Nevertheless, while a highly diversified range of sources, routes and counterparties is desirable to break-up the EU’s overall dependence, the EU is still compelled to manage the risks associated with dependence on each individual actor (or sets of actors). Here the extension of governance and the conduct of diplomacy have a part to play. In each of these cases the risks of dependence do not come from reducing the magnitude of some form of disruption or political behaviour that runs counter to European interests, but rather from reducing the likelihood and uncertainty associated with such actions.

**Reducing risk likelihood: Governance**

The promotion of external governance is one of the core proactive measures the EU uses to reduce the likelihood of risks. Indeed a number of scholars (Wichman, 2007, p.6; Lavenex, 2004, p.685) have highlighted the fact that the EU “extra-territorialises” governance institutions as a means of responding to security challenges. The ability of institutional governance structures to reduce risk can be accounted for by both rational and sociological explanations. Firstly, the establishment of governance institutions delineate responsibilities to different actors and proscribes certain risky behaviours, thus reducing uncertainty about others’ actions. Assuming adherence (which is often difficult in reality) governance models ensure compliance with risk-reduced behaviour. As Keohane (1984, p.97) notes “the principles and rules of a regime (of which EU governance institutions are one form) reduce the range of expected behaviour, uncertainty declines,

59 Interview EU Official [24], Brussels, Summer 2012
60 Although these security interdependences are normally defined of in terms of threats rather than risks (see for example Wichman, 2007, p.5).
and as information becomes more widely available, the asymmetry of its distribution may lessen”. Keohane (1984, p.97) adds that “international regimes perform the valuable functions of reducing the costs of legitimate [i.e. in this case risk-free] transactions while increasing the costs of illegitimate [i.e. risk-producing] ones”. Secondly, it is also feasible that states might rationally adopt European rules because of the material incentives or sanctions that the EU is able to impose on them (Schimmelfennig, 2009, p.7). This is likely to reduce risk by encouraging risk-free behaviour so long as the incentives for adhering to the EU’s rules are maintained. However, engagement with European institutional structures might lead, over time, to the sociological adoption of European norms by third parties who come to see these norms as appropriate (Schimmelfennig, 2009, p.7). In such circumstances, the likelihood of risk-producing behaviour that contradicts EU policy preferences will be reduced because third-party state preferences will have become aligned with EU preferences. Of course, realising a reduction of risk from the spread of governance institutions is dependent on third party adherence to governance rules. If actors do not comply with or adopt EU norms over time then the likelihood of risk is not reduced.

**Reducing risk likelihood: Diplomacy and dialogue**

In line with the European Security Strategy’s (2003) call for a “preventive” European approach to engagement with third party countries, energy diplomacy is an additional measure through which the EU can seek to proactively manage potential risks. Regular dialogue between actors allows for sharing of information on intentions, the early resolution of potential disputes and the management of uncertainty due to a greater predictability of actions (based on iterative ongoing interaction).

However, as noted above, the EU generally prefers multilateral, governance-based management of international issues to the kind of “concert diplomacy” practised by other actors such as Russia and China (Grant, 2011; Laïdi, 2008a, p.57-60). As such,
establishment of energy diplomatic fora such as energy dialogues reflects, in part, the difficulties of establishing legal governance-based energy relations based on EU energy preferences. Indeed, the conduct of energy diplomacy also demonstrates that, at times, energy frameworks in certain regions need political support to function effectively. As will be discussed further in chapters six and seven, energy diplomacy is sometimes a remedial policy tool available in the upstream when the EU’s broader objectives cannot be met through the export of governance or when governance frameworks fail.

**Risks unmitigated: Reactive governance and diplomacy**

Furthermore, it should be noted that diplomacy and governance are not solely proactive measures but also a reactive response to emergent threats. While some risks are averted, others will translate into threats and need active mitigation to be resolved. In this sense, governance institutions such as the WTO provide the opportunity for dispute resolution and mediation. Likewise, the EU’s energy diplomacy offers a way of negotiating outcomes that are acceptable to all parties. Finally, in a less benign sense, the EU’s diplomacy also presents a means to exert leverage or threaten third parties so as to reduce an extant threat to European interests.

**SOURCE AND ROUTE RISK: MANAGING DEPENDENCE ON PRODUCER AND TRANSIT STATES**

This section describes the application of the three tactical dimensions described above (diversification, governance and diplomacy) to sources and routes respectively. As these two forms of dependence have been broadly covered in the literature and do not form the core focus of this thesis, they will only be discussed briefly here. Attention will then be turned to the less often discussed EU reliance on the commercial sector which is directly relevant to this study.

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61 Interview EU Official [5], Brussels, Summer, 2011
In terms of producers (sources), the member states of the EU are exposed to the political and economic decisions of a wide range of oil and gas producing countries (e.g. Russia, Algeria, Ukraine, Turkey etc.). The major and most politically salient source dependence relates of course to Russia (Casier, 2011a; 2011b; EC, 2009a; Noël, 2008). Nevertheless, EU states import oil and gas from a number of third party states in North and West Africa (Algeria, Egypt, Libya, Nigeria etc.), the Gulf (Saudi Arabia etc.), the former Soviet Union (such as Kazakhstan and Azerbaijan) as well as from Norway.

The actual risk of supply disruptions from most producer countries (source risk) to the EU is thought by EU officials to be quite low – particularly given the high price at which Europe buys gas and the reliance of these countries on energy revenues. The EU is supplied by a large number of producers and EU officials see the risk of a prolonged disruption from any one of them to be unlikely (and the risk of a coordinated cut-off between producers to be even less probable)\(^{62}\). Furthermore, EU officials also argue that the EU’s major suppliers (Algeria, Russia and Norway) that sell considerable volumes of oil and gas to the EU27 are all very reliable having never cut supplies to Europe\(^{63}\). Officials argue that if the risk from production is spread around multiple producer states then the aggregate risk to the EU of a supply disruption is deemed to be “virtually zero”.

EU officials concede however that the risk of an actual producer-induced supply disruption is very hard to avert in the short-term when states desire to take such action. One EU official cited as an example the case of a post-revolution Egyptian decision to cut gas deliveries to Israel in April 2012. Highlighting the difficulty of managing politically-induced disruptions, one official remarked that “it wouldn’t matter what the legal regime was, there is nothing you can do about that”\(^{64}\). The approach to reducing this form of risk,

\(^{62}\) Interview EU Official [24], Brussels, Summer, 2011

\(^{63}\) *Ibid* - This is true also of Russia which has never cut supplies to Europe, but which did cut supplies to the Ukraine (which then diverted European supplies to Ukrainian consumers – see [EC, 2009a]).

\(^{64}\) *Ibid*
EU officials argued, relies on managing long-term political relations (energy diplomacy) so that suppliers have no reason to withhold supplies\textsuperscript{65}. Indeed, that the EU provide this form of preventive diplomacy appears also to be a core desire of energy companies (see chapter six).

EU officials note however that in diversifying European energy sources it is important not to augment the power of transit states. While supply disruptions from producers are thought to be unlikely, one EU official argued that it would be “stupid” to then concentrate the risk of supply in a few transit states. As an EU official argued “you don’t want to have diversified supply and concentrated transit” and that “risk of supply from 20-21 countries is not a problem as long as you minimize the transit risk”\textsuperscript{66}. Interestingly, in this area EU officials argued that both Europe and Russia share a common strategic desire to limit the risk to supply present in transit states. However, the EU and Russia have different methodologies for managing these problems. Russia pursues the construction of new pipelines that bypass transit states and the EU, officials argue, attempts to extend legal frameworks that make it clear who is responsible in the event of a supply disruption. An EU official noted “they build pipelines, we build legal frameworks – it’s a different solution to the same strategic issue”\textsuperscript{67}. Officials suggested that you can see this strategy in Russia’s response to the Russian-Ukrainian gas crisis of 2006 with the building of the Nord Stream pipeline and the planning of South Stream that both circumvent Ukraine. It was noted however that this was no different to the Italian-Libyan Green Stream pipeline, inaugurated in 2004, that circumvented transit states in North Africa (Tunisia)\textsuperscript{68}. Officials argue that this Russian approach to transit risk is not a new phenomenon, but rather transit state-avoiding pipelines have merely received more attention since the Russia-Ukrainian gas crisis of 2006. “There is nothing new under the sun” one EU official

\textsuperscript{65} Ibid
\textsuperscript{66} Ibid
\textsuperscript{67} Ibid
\textsuperscript{68} Ibid
remarked\textsuperscript{69}. Of course, the EU is just as keen to build pipelines to diversify supply risks, albeit for reductions in both source and transit risk however (see for example the discussion of the Southern Corridor in chapter one).

Regardless of how many pipelines are (or are not) built, for geographical reasons the EU is still compelled to manage relations with a small number of transit countries. The energy transit relationship between Russia and the Ukraine provides a clear example of this type of energy risk. In Ukraine, questions of energy transit strike to the heart of the Ukrainian political system with the country geographically, politically and economically pulled in pro-Russian and pro-EU directions. This division is itself exacerbated by differing Ukrainian political and economic interdependencies towards the EU and Russia (Dimitrova & Dragneva, 2009; Balmaceda, 1998). However, in the short-term, the likelihood of resolving this tension in Ukrainian politics is small\textsuperscript{70} and as such the EU is compelled to attempt to manage its reliance on the outcomes of this particular tri-lateral interaction. A part of managing this process involves conducting direct dialogue with the countries in question. The EU has, for example, proposed formulating a tripartite cooperation with Russia and Ukraine to ensure stable and “uninterrupted gas supplies through the eastern corridor” (EC, 2011a, p.5). In such instances, diplomacy regulates the risks of interdependence by aiming to reduce, or at least anticipate, the sorts of political problems that cause tensions in the energy transit chain.

Source and transit route diversification efforts (such as the Southern Corridor and enhanced relations with Liquefied Natural Gas producers), better political relations with new and existing oil and gas suppliers and transit states, the sharing of bilateral treaty information, enhanced political dialogues and the promotion of governance frameworks such as the Energy Community Treaty to Ukraine are all aimed, in part, at reducing or

\textsuperscript{69} Ibid
\textsuperscript{70} For more information on the challenges of this EU-Russia-Ukraine nexus see Wilson (2011).
spreading risk and diminishing the negative effects of EU dependence on external supplier and transit countries.

POLITICAL RISK AS ENERGY SECURITY RISK: EU DEPENDENCE ON THE COMMERCIAL SECTOR

While the EU’s dependence on producer states and transit countries are frequently discussed in the energy literature, the EU’s reliance on the commercial externally-operating energy industry, and the policy implications of this dependence, have received less attention. This reliance, it is argued here, creates an affinity between the energy security policy interests of EU actors and the commercial objectives of companies in maintaining a suitable business climate in foreign markets to ensure sustainable business conditions for companies and adequate, ongoing supply.

The EU's dependence on the commercial energy sector derives ultimately from the liberal model of energy supply in the European Union. Unlike most energy producing countries (and a number of consumers), the EU has a liberal “regulated market” model of energy policy. This involves market regulation by political authorities (split between the EU and member states – see below) and physical energy supply provided by companies. Thus, while energy commodities are private goods (to be bought and sold on markets), responsibility for the security of energy supply is today divided between companies and governments with governments relying on companies to (co)provide the public good of energy security (Egenhofer & Legge, 2001, p.1). The European Commission in the 2010 Communication on Energy Infrastructures highlights this division of labour by noting that while “oil companies are primarily responsible for ensuring continuous supply” (EC, 2010b, p.35) at the same time the EU must provide for the “public good of security of supply by bringing member states and companies together” (EC, 2010b, p.32).

71 Interview EU Official [9], Brussels, Summer, 2011
As discussed in chapter five, this liberal model of energy provision has perceived benefits in terms of increasing efficiency as well as reducing risk and energy prices for consumers. Furthermore, liberal markets also boost security of supply by encouraging the entrance of new market players, increasing the flexibility and adaptability of energy supply (Egenhofer & Legge, 2001, p.1). Indeed, Egenhofer and Legge (2001, p.6) note that “responsibility for security of supply can be more effectively distributed in more competitive markets. More competitiveness means more actors, hence less dependence on single companies or monopolies, and more competitive prices”. EU officials note that supply from international and European companies also boosts oil security relative to supply by national oil companies (Gazprom etc.) by ensuring that energy is sold on open markets and subject to fewer outright political calculations. A private company in a market has little reason to withhold supply (especially when others will take their market share if they do so). A state-owned, politically-influenced company may have reasons to withhold supply despite the commercial costs. Furthermore, privately-operating international companies buy and sell energy products (especially oil) on open world markets and are thus more transparent in their purchases and sale volumes than the state-owned companies that operate through closed bilateral deals. These deals reduce market transparency which means that less information about global supply and demand levels is available and markets become more exposed to speculation (Goldthau & Witte, 2010b).

Despite its perceived benefits, this liberal model means that the EU as a whole is therefore dependent on the commercial sector for investment in a number of strategic areas essential for long-term security of energy supply including mid-stream pipelines and upstream exploration and production. Likewise, the EU is dependent on the technology that companies possess that make investment and increased production possible,

\[72 \text{Ibid}\]
especially in upstream production. EU energy security is negatively affected by reductions in production investment or impediments to company operations and investment abroad. With increasing levels of European demand, Western company involvement in the upstream is seen as important so that future expected rises in demand are met (Pirog, 2007, p.5). National Oil Companies (NOCs) are often seen to be either unwilling to invest in future supplies due to depletion policies that view oil in the ground as ‘worth more than money in the bank’ (due to expected price rises), or unable to invest as many producer governments are not forthcoming with sufficient investment funds (Stevens 2008, p.7-8). Both EU and Kazakh officials note, for example, how despite a growing sovereign wealth fund, the Kazakh oil company KazMunaiGas has had difficulty meeting its spending commitments to consortium partners in Kazakhstan. Similarly, Hulbert (2012) has raised the need for considerable international investment in Russia if the Russian government is to maintain or increase export levels over the next decades. If national companies do not commit to necessary investments or others are not permitted to do so, then there is an increased chance of demand outstripping supply - almost certainly resulting in price rises for consumers (Pirog, 2007, p.11). In this sense, European companies are also important from the point of the view of source and route risk to the extent that their investments and technology facilitate diversification of both. As will be discussed in chapter seven, the production of several fields in the Caspian (such as the Kashagan ‘super-giant’ field in Kazakhstan) would not be possible without the involvement of Western energy companies.

In addition, it should also be noted that EU member states are very concerned with outcomes for European energy companies given their role as major tax contributors and employers in several European countries. To give one example, in 2010 BP paid £930

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73 Indeed, Goldthau (2008) notes how a lack of investment in the Russian upstream and consequent reduction in output may present more of a risk to the EU than the risk of Russian gas disruptions.
74 Interview EU Official [27], Astana, Summer 2012; Interview Former Kazakh Government Official [32], Summer, 2012.
million in tax in the UK, down from £1.7 billion that it had paid in each of the previous three years\textsuperscript{75} (Rueben, 2010). Rueben (2010) notes that if one added together “the corporation tax and production tax paid by BP, together with the National Insurance and income tax paid by its employees and the VAT and fuel excise duty paid by its customers, you get £5.8bn, which is about enough to fund the entire budget of the Department for International Development”\textsuperscript{76}. Furthermore, major oil companies contribute significantly to pension funds and employment. BP accounted for £1 out of 7 paid in pension fund dividends in 2009 and alone employs over 10,000 people in the UK (Rueben, 2010).

However, EU officials acknowledge that the division of responsibility for supply between companies and public actors presents a number of challenges. Indeed, such a model raises the problem of who is responsible (and thus accountable to citizens) for ensuring energy security through market means when problems or disruptions occur\textsuperscript{77}. As Jepma (2009, p.1) argues, throughout the 1980-1990s, energy security questions were the prerogative of the companies tasked with delivering energy supplies and, with the level of risk perceived to be low, security of supply “was seen to be in good hands”. Today however, the level of energy security in Europe has become a matter of public security concern (Jepma, 2009, p.2; Casier, 2011b; Natorski & Herranz Surrallés, 2008). While relying on companies and markets can bring benefits in terms of security of supply, as Egenhofer and Legge (2001, p.iii) argue, they also “change the nature of supply risks, necessitating a variety of government responses”.

Indeed, commercial companies operating for profit are very sensitive to political risks to their businesses, particularly when considering investment decisions that may be necessary for ongoing supply (either in exploration and production or transit). This

\textsuperscript{75} The reduction was due to the cost of clean-up and reparations after the Gulf of Mexico oil spill (Reuben, 2010).

\textsuperscript{76} The Department for International Development is a relatively small UK government department compared to others like Work and Pensions, for example. However, the fact that it could be entirely financed from the tax of just one company is quite remarkable – to say nothing for the wider economic importance of such a company.

\textsuperscript{77} Interview EU Official [9], Brussels, Summer, 2011
sensitivity is not without good reason. As Konoplyanik (2008, p.2) notes, energy investments, particularly in the upstream, can amount to billions of dollars and have a project life-cycle of 30-40 years. Once invested, equipment and money cannot be easily retracted and consequently investors require high levels of assurance for the security of their business practices (Konoplyanik, 2008, p.5). Indeed, investment from the commercial sector is only likely to be forthcoming in areas where companies' investments are secure and the political and regulatory climate is stable. Cutler (2003, p.96) notes, for example, how forced changes to accounting laws in Kazakhstan in 2003 lead the Tengizchevroil consortium to temporarily withhold a $3bn dollar investment programme.

Consequently, given the EU’s reliance on the effective functioning of energy companies and given that companies require a stable environment, consistent application of the rule of law, a secure investment climate and reduced instances of preferential treatment for national companies in order to deliver adequate and efficient supplies, threats to the provision of these factors by host producer states are also risks to the EU. While companies engage in their own representation to host-governments (often through lobby firms) and while established mechanisms of international law exist that firms can call on when disputes with governments materialise (Rubins & Kinsella, 2005, p.405), companies are often ill-equipped to mitigate or respond to these risks and rely on home-governments, and increasingly the EU, for diplomatic support (see chapters six and seven).

**Mitigating the risks of reliance on the commercial sector: Promoting and supporting state economic functions in the regional milieu**

To counteract the risks associated with reliance on companies, the EU pursues an approach of diversification, energy governance and diplomacy as mentioned above. As discussed below, governance and diplomacy are core EU tactics employed to shape the regional milieu and promote (and protect) state economic functions that both facilitate commercial activity and serve EU energy security interests.
However, diversification is a limited policy in terms of reducing the risks of reliance on companies. The EU does try to encourage a broad supply base from multiple companies upstream to reduce counterparty risk. Indeed, as Egenhofer and Legge (2001, p.ii) note, support for competitive well-functioning markets should “increase the number of market participants and thereby the flexibility and resilience of the system”. Nevertheless, restrictions on investment by producer states and the size of investments needed to take part in major projects means that the number of companies operating in some markets that the EU relies on can be limited. As noted above, only nine companies are involved in the production of the majority of Kazakh oil. EU officials note that unofficially it is recognised that some companies are more present in certain markets and therefore have greater strategic value. Therefore, from a security of supply standpoint (in addition to the value of major companies to member states), diversification is a limited tool in managing the risks associated with reliance on companies.

As such, ensuring a reduced level of political risk for European companies operating in strategically important locations (and reacting to such risks when they manifest), is a core upstream priority for the EU and one that both EU and member state officials assert they spend a lot of time on in upstream markets. Indeed, in Kazakhstan, ensuring a reduced level of political risks to investments has particular energy policy relevance given that over three quarters of all European FDI is in the oil and gas sector. Egenhofer and Legge (2001, p.iii) argue that "long-term risks relating to oil are mainly associated with ensuring sufficient investment to develop and physically deliver the necessary oil to the markets, as well as the ability to manage the political risks associated with supplier countries" [emphasis added]. Likewise, in natural gas they assert that "long-term security of supply relates to investment and political risk" [emphasis added] (2001, p.iii).

78 Interview EU Official [24], Brussels, Summer, 2011
79 Interview EU official [5], Brussels, Summer 2012
80 Interview EU Official, Astana [27], Summer 2012; Interview UK Government Official [30], Summer, 2012
81 Interview EU Official [27], Astana, Summer 2012
mitigating these risks relies on promoting and ensuring state economic functions in upstream markets. As will be described further in the next two chapters, governance and diplomacy are the two primary means by which the EU can seek to promote and maintain these state economic functions. The major focus of the EU's promotion of governance is to achieve the provision of state economic functions that correspond to the EU's basic interests in energy (most notably the protection of property rights). Likewise, one of the major objectives of energy diplomacy is to ensure adherence to, and to make up for deficiencies in, the local upstream provision of these state economic functions.

*Ensuring security of supply and reducing risk to companies: EU external energy competence*

Before turning to the discussion of political risks present in the Caspian in the next section, it is necessary to highlight briefly the competence the EU has in terms of external energy policy and the mitigation of risk for companies. At the European level, competence for energy policy is divided between the Union and member states (Braun, 2011, p.2). Article 194 of the Treaty on the Functioning of the European Union (TFEU) outlines the four aims of the EU's energy policy: 1) to ensure the functioning of the energy market; 2) to ensure the security of supply in the Union; 3) to promote energy efficiency and energy saving and develop new and renewable forms of energy; and 4) to promote the interconnection of energy networks. Likewise, as Braun (2011, p.3) notes, article 21(2) of the Lisbon Treaty stipulates that the Union “shall define and pursue common policies and actions and shall work towards a high degree of cooperation in all fields of international relations [emphasis added]”. This includes developing “international measures to preserve and improve the quality of the environment and the sustainable management of global resources in order to ensure sustainable development [emphasis added]” (Braun, 2011, p.2). The Union's legal base for external action in energy policy is, as Braun (2011, p.3) notes, article 194 (as
mentioned above), although there remains some ambiguity as to “where to draw the line in the mix of the Union's and member states’ competences”.

Crucially however, the EU does not rely solely on energy competence in order to reduce risks for the commercial energy sector. Indeed, since the signing of the Lisbon Treaty the EU has been (solely) responsible for overseas foreign direct investment (FDI). Indeed as the Commission notes in its Communication on a Comprehensive European International Investment Policy, “Article 206 of the TFEU provides that by establishing a customs union in accordance with Articles 28 to 32, the Union shall contribute, in the common interest, to the progressive abolition of restrictions on international trade and foreign direct investment, and the lowering of customs and other barriers” (EC, 2010c, p.2). This provision is backed up by Article 207 which includes FDI as one of the policy areas that falls under the EU’s common commercial policy (EC, 2010c, p.2).

While there is some existing ambiguity over the exact balance between EU and member state action in this area (see Parello-Plesner & Ortiz de Solórzano, 2013), the Council for its part has noted that it “supports the development of a common Policy Framework on investment that establishes a level playing field for all EU investors in third countries and for investors from third countries in the EU” (Council of the European Union, 2010, p.1-3). Likewise, the Council has noted the importance of an EU role in protecting rights to most favoured nation or national treatment (non-discrimination), rights to physical protection and security, non-expropriation, free movement of funds and capital transfers and dispute mechanisms (Council of the European Union, 2010, p.1-3).

**POLITICAL RISK AND THE CASPIAN SEA REGION**

Many of the non-commercial challenges that affect upstream operating companies in the Caspian fall under the rubric of political risk. As such, this section outlines the concept of political risk in more detail and highlights some of the key risks present in the Caspian
(and Kazakhstan in particular). Political risk, also known as ‘country’ or ‘sovereign risk’, refers to issues such as nationalisation, expropriation, revolution, war, terrorism, regulatory discrimination, corruption and political pressure from national and regional elites that effect business operations (Giersch, 2011). As Bremmer and Keat (2009, p.5) suggest, political risk refers to the “probability and impact that a particular political action will produce changes in economic outcomes”. Likewise, Rubins and Kinsella (2005, p.3) argue that political risk denotes “probability that a host government will, by act or omission, reduce the investor’s ability to realize an expected return on his investment” [emphasis added].

Political risk is a form of non-commercial risk in the sense that it is distinct from risks that arise from normal changes in the market conditions of supply and demand. Not only do commercial and political risks have different causes (although the line between genuine market risks and political risk can be blurred at times), political risk is generally more difficult to foresee and can require political action to remedy (Bremmer & Keat, 2009, p.5). Political risk is in large part a function of a political system’s (in)capacity to manage stresses caused by “political events [and] competing sectional interests” and to “exercise legitimacy, and discharge the functions of statehood in a non-violent, stable, orderly, democratic manner” (Jarvis & Griffiths, 2007, p.15). In particular, states undergoing modernising transitions that challenge traditional power distributions, and perceptions of legitimacy tend to exhibit higher risk than those that are modernised or yet to embark on modernisation. This focus on political systems also draws attention to how states with

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82 Some definitions of political risks also include actions by the home governments (such as the placing of sanctions for example or in the discussion of climate change legislation below) (Giersch, 2011).
83 It is also distinct from force majeure risks that can impact on business profitability such as natural disasters (earthquakes, tornadoes, tsunamis etc.) (Rubins & Kinsella, 2005, p.3).
very different political economies (such as those of the Caspian region) are often viewed to present an inherent degree of political risk\textsuperscript{84}.

Political risks can be analytically separated by level, source and type. In terms of level, political risks occur a) at the global level, impacting across the international system, b) at the country or state level, impacting across a particular state, and c) at the micro-level, impacting broadly at the domestic sub-state level or in a particular economic sector (such as oil and gas) (Bremmer & Keat, 2009, p.13). In terms of source, risks can be divided between governmental risks that emerge from deliberate political actions of governments and societal risks that emerge from sub state actors. The latter is often associated with government inaction both in a proximate, immediate sense (i.e. failure to adequately provide law and order) and in terms of continued failure to address issues over time (i.e. failure to reform that allows public discontentment to fester).

Political risks also vary by type. Bremmer and Keat (2009, p.13-14) refer to geopolitical, expropriation, regulatory and domestic instability risks\textsuperscript{85}. These four types of risk are described in more detail below with examples given from the Caspian energy context.

*Geopolitical risk* has two components. Firstly, geopolitical risk refers to risks attributable to the actions and interactions of global powers. Here risks refer to actions that a regional power might take that could impact on business outcomes. An example in Central Asia is potential Russian restrictions on Kazakh oil and gas exports (Jarosiewicz, 2010). For example, in September 2009 Gazprom stopped taking gas shipments from the Tengizchevron (TCO) project in western Kazakhstan (US Department of State, 2009). This forced TCO to reduce production and flare more gas, for which they were fined $20 million by the Kazakh Government for unauthorised flaring (US Department of State, 2009).

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\textsuperscript{84} However, it should equally be noted that many Western countries also present political risks for investors.

\textsuperscript{85} The exact forms of risk highlighted by scholars vary. Rubins and Kinsella (2005, p.5-6) talk of expropriation, regulatory interference, currency risk, civil unrest, breach of state contracts, corruption and trade restrictions.
In a more general sense, Russia places pressure on Kazakh exports that in turn places strains on company-Kazakh Government relations. Companies generally want the Kazakh government to expand export infrastructure or to be allowed to build (and therefore own) the infrastructure themselves. The Kazakh government would prefer to build and own it themselves but if they do, they need to have Russian agreement to accept more exports, for which the Russian government will ask concessions. This reduces the incentive to build greater capacity and represents a point of contention between the government and companies.

Geopolitical risk is also concerned with those risks that arise from direct conflict between states. In the Caspian region the most significant risk of such conflict derives from the ongoing tension between Azerbaijan and Armenia over Nagorno Karabakh and the potential for conflict or tensions in Georgia between Russia and the Georgian government and between the government and separatist regions. Indeed, the Georgia–Russia war of 2008 disrupted energy supplies through the BP-operated Baku-Tbilisi-Ceyhan pipeline to Turkey (Tsereteli, 2009, p.11; Le Vine, 2008). Overall, the chance of interstate conflict in Central Asia is lower, with interstate tensions between Central Asian states relatively calm (with the exception of Uzbekistan and Tajikistan) (Juraev, 2012). Both Kazakhstan and Turkmenistan (the major Caspian energy exporters) have stable (if not always good) relations with their neighbours.

Expropriation risk refers to the threat that a state will take the property of a foreign investor located in the host state (without adequate compensation) (Rubins & Kinsella, 2005, p.6). Expropriation can range from so-called “predatory tax regulations” or “creeping expropriation” to outright nationalisation of an entire economy or confiscation.

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86 Interview former Kazakh Government official [32], Summer, 2012
87 Ibid
by a state of specific assets (Bremmer & Keat, 2009, p.13; Rubins & Kinsella, 2005, p.6)\textsuperscript{88}. In Caspian countries, the investment climate is inextricably linked to the political will of powerful individuals. For example, the author has heard accounts (from reliable sources) of members of the President of Azerbaijan’s family arriving at the opening parties of prominent foreign businesses in Baku to demand 50% ownership of the company. Expropriation in energy markets is often referred to under the rubric of resource nationalism, as described in chapter one. As previously discussed, in the Caspian region, Kazakhstan has been accused of resource nationalism and of forcibly wresting shares of oil consortia away from foreign investors through the use of pressure tactics and the selective application of laws (Hug, 2010, p.6). In Kazakhstan, EU officials discuss how the Government obtained a greater share of the Karachaganak project (the only project that at the time had no Kazakh Government involvement)\textsuperscript{89}. In this case the government is said to have wanted a 10% share (at a cost of roughly $2bn). To acquire it they (allegedly) pressurized companies, imposed a $1bn dollar fine for environmental and taxation penalties and requested a $1bn loan from companies. One former Kazakh official noted how this was not entirely bad for the companies as they were now likely to receive easier treatment from Kazmunaigaz (the national oil company) who is now a partner\textsuperscript{90}. Some interviewees argued that the desire for greater equality between the Kazakh Government and foreign actors had in the past trumped legal stability and the sanctity of agreed contracts\textsuperscript{91}. One interlocutor suggested that they would not be surprised if this trend continued\textsuperscript{92}. Likewise, a representative from one EU member state government described

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\textsuperscript{88} Usually the state is involved in these instances of expropriation, however in some cases expropriation can be undertaken independently by powerful political elites.

\textsuperscript{89} Interview EU official [27], Astana, Summer 2012

\textsuperscript{90} Interview former Kazakh Government Official [32], 2012

\textsuperscript{91} Interview former Kazakh Government Official [11], 2012; Interview EU official [31], Astana, Summer 2012

\textsuperscript{92} Interview EU official [31], Astana, Summer 2012
sanctity of contracts, forced renegotiations and pressure on company officials as key risks to the energy sector in Kazakhstan\textsuperscript{93}.

*Regulatory risks* can manifest in a number of ways. Regulatory interference/discrimination does not necessarily aim at the seizure of assets (although it can amount to expropriation) but rather seeks to reduce the profitability of an investment or restrict the way that the benefits from that investment are received or utilised. Here the specific risk in question relates less to changes in law in the host state than when changes in law, or the application of law, are conducted in such a way as to deliberately disadvantage a foreign investor. Here the threat in question is the potential use of government bodies using “regulatory, legalistic, procedural and prosecutorial means to favour domestic firms over outside companies or inflict additional costs on foreign companies” (Bremmer & Keat, 2009, p.145). This type of risk is more common than outright expropriation and ultimately more difficult to prove (Bremmer & Keat, 2009, p.145). One EU official noted how investment challenges of this type in Kazakhstan derive from the post-Soviet nature of the country and uncertainty is created by regime dynamics\textsuperscript{94}. They argued in particular that problems derive from the informality of the political system and the fact that power ultimately resides with one person – the President. This high level of centralisation means that ministers are afraid of making mistakes and thus tend to put off important regulatory decisions, leading to unpredictability\textsuperscript{95}. Furthermore, EU officials argued that the country has very little tradition of public consultation meaning that regulatory decisions are taken quickly in parliament and then implemented without warning – whereas companies need predictability and time to adapt if things change\textsuperscript{96}.

Likewise, in Kazakhstan, ministers move between offices regularly, resulting in foreign investors spending time building a solid relationship only to find after a short period of

\textsuperscript{93} Interview EU member state government official [30], Astana, summer 2012.
\textsuperscript{94} Interview EU official [27], Astana, Summer 2012
\textsuperscript{95} Ibid
\textsuperscript{96} Ibid
time one has to liaise anew with a different official. The informality of the political system in Kazakhstan also means that there can be competing sources of power within the system. Senior energy business officials in Kazakhstan report how the financial police, who report directly to the President, have an “immense” amount of power and can cause considerable problems for companies (US Department of State, 2009a). For example, after negotiating an agreement with Kazakh Prime Minister Massimov that guaranteed tax stability for the Kashagan oil project (see chapter seven), the financial police asserted that the document was not a legal agreement and threatened to press criminal charges against individuals in the companies (US Department of State, 2009a). The police were alleged to have said that they worked for the President and not the Prime Minister and that unless told to “back off” by Nazarbayev they were going to continue with the case. They subsequently requested 40,000 pages of company documents, translated into Kazakh within seven days or they would proceed with the criminal prosecutions (US Department of State, 2009a). Likewise, Kazakhstan has been criticised by companies more generally for calling into question tax stabilisation clauses in production sharing arrangements (PSAs) (US Department of State, 2010b).

Domestic stability risks (civil strife) concerns risks that arise from “severe regime or government instability, and crises such as state failure, civil war, revolutions, coup d’états and riots” (Bremmer & Keat, 2009, p.84). Often these result as much from state inaction as from the deliberate intentions of political leaders. Globalisation, rising inequalities, increased international communication and travel all contribute to the increased presence of this risk (Bremmer & Keat, 2009, p.84). As the International Crisis Group note (2007), energy producing regions often “suffer poverty, repression, environmental degradation and labour tensions without seeing benefits from the wealth that is created”. These conditions can create resentment both towards foreign companies and government structures. The countries of the Caspian region all present various forms of domestic

97 Ibid
stability risk. Uprisings and violent crackdowns are not uncommon to the region. For example, in December 2011 a crackdown on striking miners in the Western Kazakh town of Zhanaozen killed 16 people. The government responded quickly and quelled further action by firing the regional governor Krymbek Kushnerbayev and the President's son-in-law Timur Kulibayev\(^98\) (Jackson, 2011a). Nonetheless, the risk of uprising or instances of political violence is present in all Caspian states\(^99\).

Additionally, a number of the states in the Caspian/Central Asia region face an instability risk derived from potential succession crises (Mueser & Giersch, 2011). Within the neo-patrimonial systems in the region the president holds a significant amount of informal power, balancing the interests of rival elite groups. These tacit balances that provide (an often uneasy) stability can easily be disrupted by succession and the political influence of prominent individuals in society (and the security this gives to foreign partners) can be undermined (Mueser & Giersch, 2011). This is a particular issue in Kazakhstan given the advanced age of President Nazarbayev (currently 73). Released US State Department Cables document Kazakh insiders as describing the battles that could ensue between rival elites when Nazarbayev dies as “frightening” (US Department of State, 2009b). Such battles would likely have consequences for foreign investors, especially if they affected those state officials with whom they have built good working relationships.

**THE POLITICAL RISK CORE: DIVERGENCE AND CONVERGENCE IN EUROPEAN PERSPECTIVES OF ENERGY RISK**

The various actors in European external energy policy are presented with a variety of different risks to their overall energy objectives. This final section of the chapter evaluates convergence and divergence in the energy policy risk perceptions of European political actors.

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\(^{98}\) Kulibayev was fired from his position as head of the country's sovereign wealth fund Samruk Kazyna (which controls the national oil company) because the company was said to have not responded adequately to workers' demands (Jackson, 2011a).

\(^{99}\) As indeed it is in many Western states.
and commercial actors. Through an examination of EU institution (particularly Commission), member state and energy company energy security discourses, this section demonstrates how political risks and market hindrances in the upstream (especially investment and market access risks) represent *the strongest area* of risk perception convergence between European political and commercial actors. It should be noted that not all of the risks discussed here relate to the Caspian upstream, but rather risk in energy more broadly. However, a full discussion of the respective risks as perceived by different actors allows for an understanding of how risk perceptions contribute to areas of both tension and, importantly for this thesis, *upstream cooperation* between EU actors.

The convergence on political risk and market access does not in and of itself guarantee European cooperation in addressing these risks in the upstream. It is suggested here however that the convergence on upstream political risks is a *necessary condition* for the European cooperation and unity needed to address these risks in the upstream. As such, this section below sets up the analysis (continued in the following two chapters) of convergence around the EU external governance and energy diplomacy policies that aim to tackle these risks.

The section is divided into three parts. The first part discusses areas where there is no or little risk perception convergence between European actors (although there is often convergence between the Commission and member states). These are risks related to demand, climate change and energy prices. The second part briefly highlights those areas where there is little real convergence or divergence between actors (liquidity, credit and source and route dependence risk). Some issues, such as states' political dependence on producers and transit states, are broadly political and concern companies only

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100 Witness, for example, Commission and member state convergence on the risks posed by dependence on producers such as Russia and the corresponding difficulty in formulating a European response (see below and chapter one).

101 If not agreement on what to do about it.

102 In some areas of risk, different actors' risk perceptions clash and in some cases the Commission itself is seen as a *source of risk* by energy companies.
peripherally. Others, such as credit and liquidity risk, are commercial risks and correspondingly do not feature in Commission or member state discourses. The final part of this section discusses the areas of convergence between all three actors, namely on operational-environment risks, risks related to a lack of investment/market access and political risk. Indeed on these issues, the risks present to companies are also considered to be risks by the political actors analysed here. This reflects the upstream dependence of these actors on the commercial sector and represents a core dimension of the interrelationship between them.

The data in this section is derived from a wide range of EU institution, member state and company documentation and interviews. In particular, it is based on a number of Commission documents and public speeches from 2002 to 2011, member state and company responses to EU public consultations on energy policy (2006) and external energy policy (2011), as well as company risk statements in annual reports and company submissions to stock exchanges in the US and France that contain risk assessment sections. All of the commercial actors discussed in this section are either actively engaged in the Caspian region or involved in projects that rely on supply from the Caspian.

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103 It should be noted that while some issues are identified as risks by all actors (such as climate change or energy prices) the actual specific issues they raise are frequently divergent. However, importantly for the analysis here, all the issues where agreement is seen fall within the purview of external energy governance and diplomacy.

104 In addition, however, whilst not a Commission official, this section also considers the securitisation discourse of the former High Representative for Common Foreign and Security Policy, Javier Solana, given his particularly important high-profile role as a supranational agenda-setter in foreign policy during the time frame analysed.

105 With regard to energy companies, the analysis in this section is based on the examination of annual reports and responses to European Commission public consultations from a number of European and international energy companies - BP, Eni, Statoil, ExxonMobil, Chevron, Royal Dutch Shell, OMV, EDF, RWE, BG Group and Total. In cases where annual reports did not include a section on risk factors facing each of the respective companies, filings to financial authorities - the United States Securities and Exchange Commission and the French Financial Markets Authority - that do include a section on risk were analysed.
**Areas of risk divergence: Energy demand, prices and climate change**

In its public pronouncements the European Commission extensively highlights the risk of increasing global demand for energy and precipitant high prices. Former Energy Commissioner Piebalgs (2008, p.2) notes that rising energy demand is one of the most serious challenges undermining stability in energy markets. He asserts that global demand is increasing by 1.9 per cent per year and that at current rates an extra thirty-three million barrels of oil may be needed every day relative to current levels (Piebalgs 2008, p.2). Former External Relations Commissioner Benita Ferrero-Waldner echoed these statements in 2008 when she noted that if China and India consumed the way Europeans do, adjusting for population, "we would need two planet earths to cope" (Ferrero-Waldner, 2008)\(^\text{106}\).

In their response to the consultation for the 2006 Green Paper, EU member state governments are largely unanimous in highlighting the energy security risks created by demand rises in emerging economies (see for example UK Government, 2006b, p.3; The Dutch Ministry of the Economy, 2006, p.1; The Government of the Republic of Poland, 2006, p.1). Echoing Commission perceptions, the UK government refers to "secure energy at affordable prices" as one of the UK's overarching long-term energy challenges\(^\text{107}\) (2006b, p.1) - although one UK government official interviewed argued there was a difficult trade-off between promoting affordability in energy and the negative impact of low prices on the UK's environmental agenda\(^\text{108}\). Similarly, the Netherlands Government (Dutch Ministry of the Economy, 2006, p.1) stresses the risks of "structurally higher oil

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\(^{106}\) More recently, Commissioner Oettinger has argued that "rising demand in developing countries is diverting supplies away from Europe" and that even if the worst effects of this shift are managed the EU "will face sharp price increases" (Oettinger 2011, p.3).

\(^{107}\) This, they note, translates into a broad vision for energy based on "reliable, affordable and sustainable energy for Europe" a position very close to the Commission's own view of energy (2006b, p.1). The UK demonstrates a view on energy policy that is very closely aligned with that of the European Commission. See for example the UK responses to the 2006 Commission Green Paper consultation.

\(^{108}\) Interview UK Government Official [30], Astana, August 2012.
prices” and the Hungarian Government concurs with the Commission’s analysis of growing demand trends discussed above\textsuperscript{109} (Hungarian Government, 2006, p.1).

Energy companies also note changes in global supply and demand as a factor of risk. However, as commodity businesses, they concentrate on the consequences in terms of increased competition, oil prices and precipitant profit levels. Low prices decrease profits and liquidity, impair the ability to attract finance for investment in future projects and threaten to reduce booked reserves as some may become uneconomic in a lower price environment. Conversely, higher prices reverse these risks and ultimately increase profits. However, substantial price increases can carry a number of risks. BP for example, referring to the increase in political risk that derives from augmented prices, notes that high prices encourage ‘fiscal take’ from governments and more “onerous terms for access to resources” (2010, p.14).

However, perhaps the biggest risk from high prices concerns long-term moves away from hydrocarbon use, rising efficiency and the decoupling of economic growth and energy demand. All of these represent serious long-term risks for companies that sell oil and gas, and are in a sense risks created, or at least exacerbated, by the actions of member states and the EU institutions\textsuperscript{110}. Price volatility\textsuperscript{111} represents another, price-related risk for companies. Large variations in energy prices create uncertainty that increases the risks of investment for companies, hamper companies’ mid to long-term planning, and threaten to reduce (or even eliminate) the profits from certain projects.

Both these areas see partially conflicting agendas between company, member state and Commission perceptions. Highlighted specifically as risks by Eni (2010, p.38) and Statoil

\textsuperscript{109} Both highlight that the Commission’s competitive, sustainable and secure vision of energy corresponds closely to their national policy objectives (The Hungarian Government, 2006, p.1; The Dutch Ministry of the Economy, 2006, p.1).

\textsuperscript{110} Exxon Mobil (2011, p.1) for example argues that an “effective EU energy strategy should provide clear and positive demand signals” and that doing so will “encourage investment in the EU but also help ensure long-term investments from outside the EU”.

\textsuperscript{111} Price volatility is also an issue for political actors, although they would prefer stable relatively low prices, whereas companies would prefer stable, relatively speaking, higher prices.
(2010, p.153), the EU’s attempts to increase competition inside the EU, itself designed to mitigate demand and price risks in internal markets, sit uncomfortably with energy company fears over greater competition in their previously-protected home markets\textsuperscript{112}. Likewise companies’ general inclination towards higher prices (despite the challenges posed by this eventuality) does not fit easily with the risks to the European economy and citizens from high prices highlighted by the Commission and some member states above.

Risks associated with climate change are also highlighted extensively by EU actors. The 2006 Green Paper, for example, notes how the Earth is getting warmer and that numerous global regions, including the EU, will “face serious consequences for their economies and eco-systems” (2006, p.3). The UK Government (2006a, p.2), concurs asserting that “the risk to the climate caused by the world’s increasing consumption of hydrocarbons is now beyond doubt and the EU needs a sustainable energy policy that will meet the challenges this presents”. The French government supports EU-level measures on tackling climate change (2006, p.7) and the Lithuanian Government notes the EU’s “striving for leadership” on climate change and the importance of obtaining CO2 reductions from major consuming countries (2011, p.4). Taking a more political tone, former Commissioner Ferrero-Waldner (2008) and former High Representative Solana (2008, p.3) both argue that climate change is a ‘threat multiplier’. Solana notes that climate change directly affects European interests by worsening existing tensions in countries and regions which are already fragile and conflict-prone (2008, p.3)\textsuperscript{113}.

However for companies, government responses to climate change and the low carbon agenda are identified as risks. Some companies such as BP, ExxonMobil and Statoil note

\textsuperscript{112} In their 2009 annual report, Eni discusses the implications of increased competition deriving from the implementation of Italian legislative decree 164/2000, itself implementing EU directive 98/30/CE that required member states to restrict national companies to a certain percentage of input into national gas transport networks and volumes of gas sold to national companies. This allows new competitors to enter the market and reduces selling margins on gas (Eni, 2010: 38).

\textsuperscript{113} Ferrero-Waldner asserts that climate change aggravates other energy risks such as increasing global demand as consumers use more energy to stay cool in hotter summers and warm in colder winters (2008).
that both increased public awareness of climate change and corresponding international climate change regulations are likely to reduce demand for the kind of products that oil and gas companies produce as well as impose tougher emissions controls on them directly as businesses. Exxon Mobil (2011, p.1-2) notes that “the [EU’s] 20:20:20 Climate and Energy Package provides no long-term signal that investments in projects with long payback times will still be needed”. BP notes climate change legislation can result in capital expenditure to meet compliance requirements, increased taxes, higher operating costs and reduced revenues (2010, p.15).

Total and Statoil point out the risks posed by EU climate legislation to their businesses. Statoil notes that the EU’s Environmental Package\textsuperscript{114} implemented in 2008 will have “positive and negative impacts on the competitive position of natural gas as a fuel” (Statoil 2010, p.154). Total (2009) notes that “growing concerns in the EU and globally that rising greenhouse gas emissions and climate change may significantly affect the environment and society could adversely affect our businesses, including by the addition of stricter regulations that increase our operating costs, affect product sales and reduce profitability”\textsuperscript{115}(p.6).

\textit{Areas of little apparent tension or convergence: Credit and liquidity risks, great power politics and (inter)dependence}

This section highlights the areas of little apparent convergence or divergence between the perceptions of EU public and private actors. Firstly, from a company perspective, it highlights the credit and liquidity risks that are not a primary focus of public actors.

\textsuperscript{114}The Environmental package in question consists of (\textit{inter alia}) a revision of the EU Emissions trading Scheme (ETS), binding targets on the production of renewable energy, promotion of carbon capture storage (CCS) and revised rules for state aid on environmental projects (IEEP, 2008).

\textsuperscript{115}It should be noted however that some companies do not see aspects of the EU decarbonisation agenda as entirely threatening. For example, concerning carbon capture storage (CCS), Shell highlights that “the technology required for geological sequestration is proven and in common use in the oil and gas industry for enhanced oil recovery”. They add “this fits with our business and builds on our strength in understanding subsurface structures and processes” (Royal Dutch Shell, 2006: 7).
Secondly it considers the risks to states and the EU associated with dependence that tends to fall outside of the direct purview of private actors.

**Credit and liquidity risk**

Common to all the company risk perceptions examined here is a concern with the credit risk from exposure to counterparties (such as banks or other companies) unable to pay amounts due. The risk from these counterparties is distinguished from the other forms of credit risk such as those deriving from retail customers. This risk is very similar to that facing most commercial operations and is not specific to energy companies, although the size of the industry does make the sums notable.

Another risk cited by energy companies with energy security repercussions is that of maintaining liquidity. Liquidity risk refers to the ability of oil and gas companies to maintain access to finance to be able to fund future projects and debt obligations. This is of course a direct concern to energy companies as it would be to any company, but it has a broader significance for energy security in terms of the ability of energy companies to maintain both the investment in infrastructure and exploration needed to meet projected demand. The prevailing economic climate provides an important context here as periods of recession make it more difficult for energy businesses to raise finance through commercial loans from banks and through financial instruments such as issuing bonds. BP also notes the impact of commodity prices on investment programmes, highlighting the damaging effect of prolonged low prices (BP, 2010, p.14). Shell highlights for example the risk deriving from partner organisations in joint ventures (Royal Dutch Shell, 2009, p.14). Eni also notes the liquidity challenges posed by ‘take or pay’ and ‘ship or pay’ clauses whereby a company is obligated to buy a certain amount of gas (take or pay) or transport
capacity (ship or pay) from their supplier and transit partners regardless of demand (2010, p.93).116

It should be noted, however, that while there is little evident co-identification of this form of risk between companies, the Commission and member states, the actions of political actors (at the member state and the EU level) can have a negative effect on company prospects and credit ratings and, as a result, their relations with financial institutions. Given the large sums of investment needed to ensure future European energy supplies (predominantly invested by companies), this is a potentially important form of risk from a company perspective.

*Source and route dependence*

Risks of dependence on certain producer countries and transit routes and the possibility that this dependence might be exploited for political purposes presents a particular form of risk that is regularly raised by the EU officials and member states, but infrequently highlighted by companies117. Indeed, one company official spoken to claimed that dependence on foreign supplies was not a problem so long as one was concerned with the governance situation (in both legal and good governance sense) in the countries where energy is produced118. In its securitisation discourse, the Commission stresses the increasing dependency of the EU on foreign sources of energy. Commissioner Oettinger notes, for example, that “our [European] imports are rising while our oil and gas production is declining” (2010b, p.2) and that this situation is likely to increase significantly over the next decade (2010d, p.2). Ferrero-Waldner notes “there is nothing wrong with importing energy *per se*, provided that we are talking about open, transparent and competitive global markets. However, in today’s world we are often not” (2008).

116 Such contracts pose a risk to gas companies as they usually cannot be cancelled and involve long-term obligations. Here there is some potential convergence with EU efforts to take actions in this area.
117 The actions of these countries certainly present a risk to companies but one that is better described via the notions of political risk (see below).
118 Interview Energy Company Official [33], Brussels, Autumn, 2012
Ferrero-Waldner (2008), for example, linked the ‘events in the Caucasus’ (the Russo-Georgian War) of 2008 to European energy security concerns on two separate occasions during her 2008 speech to the UN on external energy policy.

However, the most strident exposition of the geo-political risks of dependence in the sample of speeches reviewed comes from Javier Solana (2008). He notes how the expectation of tightened energy demand is already triggering “all sorts of behaviour” and a “dash for gas” (2008, p.1). He adds that “by 2020, world energy markets will be tighter, leading to more political tensions. In all scenarios the power of resource-holders is set to increase” (2008, p.1). Solana saves his strongest rhetoric for discussions of the relationship with Russia, whose energy policy, he argues, “follows a tight script” with a sense of “strategic purpose” (2008, p.2)119.

Virtually all member state responses to the 2006 and 2011 public consultations place stress on rising levels of dependency on external suppliers, echoing Commissions discourses. The stress placed on this risk varies however between member states. In their responses to the 2011 EU public consultations, the French Government (French Permanent Representation, 2011, p.2-3) refers to the importance of the energy dialogue with Russia and mentions Russian (and Chinese) energy competition in the Caspian region. The UK stresses risks of growing dependency on external suppliers and the need to engage with Russia on “an equal footing” (UK Government, 2006a; 2006b). Others however, particularly Eastern European member states, place greater stress on this risk, running closer in some cases to Commission levels of securitisation. Hungary notes that “while Russia has proved to be a reliable energy supplier” the supply disruptions of early 2006 “can be assessed as a warning signal” (Hungarian Government, 2006, p.3). The Benelux countries stress that the EU needs to reduce the vulnerability that arises from the

119 This kind of language and direct reference to Russia is unusual amongst the speeches and documents analysed as in most of the references to the political aspects of dependence on suppliers, the suppliers deemed to be a threat or to pose a risk are not mentioned so explicitly.
fact that “it is now more dependent on energy imports than the countries exporting energy are dependent on the EU” (Governments of the Benelux Countries, 2006, p.1). The Czech Government asserts that “without a unified stance, the EU is an easy target for divide-and-rule policies by third party suppliers” (2011, p.1). The Dutch Government notes that “developments of the past year (the Ukraine-Russia gas crisis) tell us that political factors are exerting greater influence on the energy markets than they previously did” and that “energy policy is increasingly becoming a matter of foreign policy” (Dutch Ministry of the Economy, 2006, p.5).

Despite the fact that these issues are not raised frequently by companies, there is nonetheless a sense in which inter-state political tensions impact on outcomes for energy businesses. Companies are of course affected by both the rise and fall of major powers and by effects of conflict and its aftermath (geo-political risk as described above).\(^{120}\) Furthermore, in hindering the political action of the EU or certain member states, this risk of political dependence may impact on companies’ risk mitigation strategies if their political backers are unable to support them because of their heightened dependency. However, from a company perspective, these issues manifest most often in country-level political risk (described below).

**Areas of risk convergence: Operational-environmental risks, risk of underinvestment/reserve replacement and upstream political risk**

This section outlines areas where EU, member state and energy company perceptions of risks overlap. Firstly, it considers operational-environmental risks, i.e. risks relating to damage to people or the environment caused by operational disasters. Secondly, it highlights convergence on risks associated with underinvestment and restricted market access that induce energy price rises and hinder companies’ reserve-replacement. Finally,\(^{120}\) The 2008 conflict in Georgia presents a case in point here.
it assesses risks that fall under the rubric of political risk, particularly governmental interference and producer state stability.

*Operational-environmental risk*

Energy companies face a number of operational-environmental risks in the conduct of their business that are broadly in line with Commission objectives. Primarily these refer to the risk of industrial disasters to people and the environment. Ramifications associated with these risks include litigation and reputational damage. Most of the documents analysed here note that environmental damage caused through oil spills, pipeline ruptures or refinery explosions, for example, carry significant risks to company reputations (the Gulf of Mexico Deep Water Horizon oil spill is a case in point here) and expose companies to the risk of legal action.

In the 2011 Communication on the external dimensions of EU energy policy, the Commission raises safety and operational-environment risks as an important issue, highlighting the high safety standards in this area within the EU and stressing that the EU should be committed to ensuring the highest levels of operational safety in oil and gas production internationally (EC, 2011a, p.14). With the exception of short references by the French (French Permanent Representation, 2011, p.1) and Latvian Governments (Government of Latvia, 2011, p.1), in their responses to EU public consultations, member states do not tend to expressly highlight safety standards in external energy policy as a particular concerns. However, as is described in the next chapter, a number of member states (e.g. France, Lithuania, Poland, Latvia, the UK) do call for harmonisation of regulatory standards, suggesting a concern with lower standards outside of Europe and the potential for commercial advantage that higher standards might entail for European businesses.
Issues surrounding lack of investment are some of the key risks highlighted throughout Commission texts. Principally the Commission highlights the sheer number and cost of investments needed to meet future energy demand in Europe and the investment openness and stability needed in partner states\textsuperscript{121}. The Commission, quoting the International Energy Agency, notes that "the ability and willingness of major oil and gas producers to step up investment in order to meet rising global demand are particularly uncertain" [emphasis added] (EC, 2007a, p.4)\textsuperscript{122}.

Member states also raise these issues, highlighting the importance of market access for private actors that would boost investment. Poland calls for "significant facilitation for EU investors in producing and transit states, arguing that the EU needs to aim towards the elimination of the trade barriers that all member states face (Polish Ministry of the Economy, 2011, p.3-4). The Dutch Government notes how the EU should pursue agreements with producing countries that "include stipulations governing market access" (Dutch Ministry of the Economy, 2006, p.5). The Dutch Government (Dutch Ministry of the Economy, 2006, p.5) also notes the importance of diversifying sources of supply\textsuperscript{123} and the consequent need for the EU to focus on "creating a level playing field to enable market parties to effectively engage in complex infrastructural projects on a non-discriminatory basis". The French Government notes that energy security is in part assured by "guaranteeing equitable market access and production conditions [for companies]" (French Permanent Representation, 2011, p.1-2).

\textsuperscript{121} Investment attraction and investment security are intrinsically linked, as few are likely to be attracted to invest in areas where previous investments are not secure.

\textsuperscript{122} Solana asserts that "there is justified concern across Europe about Russia seeming more interested in investing in future leverage than future production. "Contrast Gazprom’s strategic spending spree abroad with the lack of investment and waste at home" he notes (Solana, 2008, p.2).

\textsuperscript{123} The Dutch Government also describes the Caspian as a potential location for this supply (Dutch Ministry of the Economy, 2006, p.5).
Companies place considerable stress on gaining market access. Indeed, doing so represents one of their core business objectives – the maintenance of their ‘reserve-replacement ratio’. Reserve-replacement ratios refer to a company’s ability to acquire access to new reserves as it depletes its existing ones. An increasing reserve/replacement ratio is a key performance indicator for companies, vital for maintaining or increasing valuations on stock markets. However, access to reserves is in many cases controlled by producer states, presenting difficulties for companies and meaning that they are not always able to gain access to new reserves as quickly as their existing ones are depleted (Vivoda, 2009, p.525). BP notes, for example, in the risk section of its 2010 report to the US Securities and Exchange Commission that “successful execution of our group strategy depends critically on sustaining long-term reserves replacement” (2010, p.14). Likewise, Shell argues that “future oil and gas production will depend on our access to new proved reserves through exploration, negotiations with governments and other owners of known reserves, and acquisitions. Failure to replace proved reserves could result in lower future production” (Royal Dutch Shell, 2009, p.13).

*Political risk*

However, the clearest area of commonality in the risks identified by energy companies, the EU and member states relates to the levels of domestic political stability, legal stability and non-interference in producer states. Linking European energy security directly to the domestic stability situation in producer states, Solana (2008, p.2) argues that the rent-seeking and high levels of corruption in many energy-producing states mean that they are “nine times more likely to suffer from violent conflicts than those that are non-resource rich” and that “nearly all experience political instability, poor governance and human rights abuses”. Solana points out that energy rents shield producer regimes from pressure to improve good governance, including from the EU (2008, p.2). Other Commission documents reviewed touch on these issues of domestic instability but tend to do so more
from the perspective of investment and legal stability rather than the political standpoint taken by Solana.\textsuperscript{124}

Problems of investment security and government interference are afforded significant focus in Commission public documents. Given that most investment comes from the private sector, the quality of the investment climate, both in terms of country-level political stability and investment security, is of crucial importance (EC 2006b, p.15-18; EC 2007a, p.4; p.24-25; EC 2008a, p.7-8). Ferrero-Waldner (2008) highlights “growing resource nationalism and interference by the state in producer countries” and stresses that Europe needs to integrate its energy markets to achieve the “bargaining power we need”. When talking about investment stability the Commission and Commissioners rarely mention the particular issues of instability present in specific producer countries, concentrating rather on provisions needed to address them. One can deduce however, both from Commission discourse and the space allotted to these investment provisions, the importance placed on this area of energy risk.

The 2006 Green Paper talks of the need to use ‘trade policy tools’ to develop a more secure investment climate and the need to “improve the conditions for European companies seeking access to global resources” (EC 2006b, p.17-18). According to the Commission, provisions “based on the Energy Acquis and where appropriate the Energy Charter Treaty”, need to provide clear conditions for access to markets, dialogue on policy and market developments, dispute settlement and transit arrangements to ensure normal flows of energy “even in periods of political tension” (EC 2008a, p.8). The need for legally binding mechanisms is highlighted in the 2006 Green Paper, in both the first (2007a) and second (2008a) Strategic Energy Reviews and in the Communication on External Energy Policy (2011). This reflects contemporary investment stability concerns such as those

\textsuperscript{124} Less direct than Solana, Oettinger notes for example that “uncertainty [in oil] is exacerbated by poor governance and a lack of transparency in parts of the global oil market” (2010c, p.2).
evidenced by alleged recent assertive state behaviour and pressure on the foreign investors involved in the Karachaganak and Kashagan projects in Kazakhstan (see above).

While member states do not tend to place as much stress on these concerns in their public discourses as Javier Solana or Benita Ferrero-Waldner (at least in public), they also highlight the risks associated with these issues. The Dutch Government stresses the importance of “encouraging stability in those parts of the world, upon which we depend for our fuels, whilst at the same time creating the conditions for a stable and secure supply” (Dutch Ministry for the Economy, 2006, p.5). The French Government stresses the need for EU relations with energy partners to pursue a judicial framework for the protection of company investments (French Permanent Representation, 2011, p.2). Referring to investment in infrastructure projects, the Polish Government notes that “the EU should concentrate on eliminating identified legal, administrative and organizational barriers, as well as minimizing the investment risk” (2011, p.5). The Czech Government calls on the EU to “focus on promoting stable and transparent legal environment in producing countries protecting European investments” [sic] (2011, p.2).

Company perceptions of political risk closely mirror those of other actors. Referring to political risk to investments and its impact on business, one official from a prominent international energy company referred to how, for them, company value is determined by cash flow divided by the exposure to risk125. Given that political risk is an important part of that overall risk exposure, it is essential that levels of country risk are managed. However, they were keen to stress that regardless of the difficulties and tensions of operating in energy-rich countries and the risks this may entail, companies have a right to expect that their private property will be treated as sacrosanct and that the law will not be applied selectively126. It is clear that, for energy companies, domestic stability and the investment climate in producer states are central to the risks associated with the oil and gas business

125 Interview Energy company official [33], Brussels. Autumn, 2012,
126 Ibid
and that the EU should be involved in mitigating these risks. Reflecting both its core concerns and recognising the EU’s dependence on increased investment, Exxon Mobil (2006, p.9) suggests, for example, that the “EU should keep promoting with its energy partners political and legal stability, reliable institutions and respect towards contractual agreements (particularly those increasing investment)”. Eni goes so far as to say (2011, p.3) that “the primary aim of the EU external energy action should be that of applying all political tools to guarantee investment protection at an international level”.

As highlighted by Solana above (2008), the authoritarian nature of oil and gas producing countries is perceived to create a number of social stability risks that can impact on energy company operations. In particular, most of the energy companies highlight societal risk factors such as terrorism, civil unrest, international conflict, industrial action and sabotage (Eni, 2010, p.94; Chevron, 2010, p.30; BP, 2010, p.14; Statoil, 2010, p.151; Exxon Mobil, 2010, p.4).

However, the majority of the focus put on political and stability risk is concentrated on the potential intentional actions of producer states. In terms of what is highlighted as risk by the energy companies here, one can make a distinction between the politico-legal context (i.e. a lack of well-established and reliable legal structures) and the intentional and punitive actions of governments (ranging from unpredictable tax and royalty changes to nationalisation and expropriation) that the lack of a developed (and respected) legal order permits (Eni, 2010, p.94; Total, 2009, p.78; Statoil, 2010, p.151; Exxon Mobil, 2010, p.3; Chevron, 2010, p.30; BP, 2009, p.14).

Several of the energy companies (Statoil 2010, p.151; Eni 2010, p.94; ExxonMobil 2010, p.3) note that a number of countries in which they operate have underdeveloped legal structures, creating uncertainty and risk in their operations. ExxonMobil (2010, p.3) asserts that even when this risk is circumvented by international agreements to arbitrate disagreements, companies still rely on local legal systems to enforce decisions. The nature
of the producer state legal infractions highlighted by energy companies range from tax and royalty interpretation, production and exploration restrictions, to more serious issues such as unilateral contract changes, forced changes to asset ownership, expropriation and nationalisation (Eni, 2010, p.94; Total, 2009, p.78; BP, 2010, p.14; Chevron, 2010, p.30-31).

A number of the companies assert that state-run NOCs do not operate according to commercial imperatives and factor political interests into their commercial decisions. Statoil (2010, p.151) notes that governments and national oil companies in some regions have begun to impose greater control over and more stringent restrictions on energy projects and that this is a trend they expect to continue. As mentioned above, BP (2010, p.14) notes that rising prices can lead to increased ‘fiscal take’ and difficulties in gaining access to resources. ExxonMobil (2010, p.3) alludes to a shifting power relationship between producers and energy companies when they note that “restrictions on foreign investment in the oil and gas sector tend to increase in times of high commodity prices, when national governments may have less need of outside sources of capital”\footnote{Several of the companies (Chevron, BP, ExxonMobil and Statoil) also highlight the potential risks associated with OPEC’s ability to apply production quotas, change supply levels and consequently affect oil prices.}

![Fig. 4: Public and private perceptions of energy risk. Source: Own elaboration.](image-url)
CONCLUSION

As the sections above have demonstrated, EU institutions, member states and energy companies demonstrate the highest level of energy risk perception convergence on matters of political risk (investment and market access risks in particular) (see fig. 4 above). Given the EU’s liberal security of supply model the EU is heavily reliant on a (frequently small) number of companies in the upstream for the physical production and delivery of supply and the necessary investment to maintain supply levels. As described in section three above, in upstream markets such as those of the Caspian region, companies’ abilities to conduct their role in the provision of EU energy supply is hindered by political risks. The EU’s reliance on the commercial sector means these political risks are also energy security risks and, as this chapter has discussed, this reliance creates a strong overlap between company desires for a stable investment environment and the EU’s security of supply policy. In turn, the chapter has demonstrated the overlap between the EU's realist security-maximising and commerce-facilitating activities in the upstream (discussed further in the next two chapters).

As with its other foreign dependencies (sources and routes), the EU manages the risks of dependence on the commercial sector by encouraging diversification (to limit the magnitude of risk impact) and through governance and diplomacy (to reduce the likelihood of risks materialising). However, as noted above, diversification is of limited use in the upstream and as such the promotion of energy governance and conduct of energy diplomacy take on particular significance. Here, EU actions are generally proactive, seeking to shape the regional milieu so as to offset risks before they occur. However, as noted above, both diplomacy and governance also provide some capacity to re-act to extant threats as well as avert potential risks.

This chapter has outlined the convergence between European political and commercial actors on upstream risks (a necessary condition of upstream cooperation), discussed the
dependence of political actors on the commercial sector in the upstream, highlighted the importance of political risk mitigation in EU external energy policy and drawn attention to the overlap between the EU’s energy security and upstream commercial policy aims. In turn, it has discussed the role of energy governance promotion and energy diplomacy in the pursuit of these objectives. In doing so, this chapter sets up the analysis of EU objectives and convergence on external energy governance and diplomacy in chapters five and six respectively and leads the way for investigation, in chapter seven, of the political-commercial interdependence and catalytic diplomacy that characterises the EU upstream market-authority bargain in the Caspian.
CHAPTER FIVE

EU UPSTREAM ENERGY GOVERNANCE: EXAMINING EU GOVERNANCE OBJECTIVES, STATE ECONOMIC FUNCTIONS AND THE LIBERAL SHAPING OF THE CASPIAN ENERGY MILIEU

As discussed in the previous chapter, the EU operates a liberal, public-private model of energy policy that entails milieu-shaping in strategic regions to facilitate companies and offset risks to the commercial energy sector on which the EU, in part, relies. This chapter examines both the institutional and normative-regulatory dimensions of the EU’s upstream governance in the Caspian and the extent to which member states and companies support this milieu-shaping governance in the region.

In particular, this chapter examines how the EU’s energy governance promotes a number of the risk-reducing and market facilitating “state economic functions” (SEF) in the Caspian region discussed in chapter two (Smith, 2004; Murray, 1971). These include, most notably, the protection of property rights (SEF: protection of property rights), defence against commercial disadvantage (SEF: protection against commercial disadvantage) and the promotion of autonomy for economic actors (SEF: contributing to collective autonomy). In turn, the chapter provides further evidence of the overlap between security and economic-commercial objectives in the Caspian upstream.

This chapter comprises four parts. To provide a framework to analyse the EU’s governance, the first section discusses Mommer’s (2000) typological distinction between
‘liberal’ and state-led ‘proprietorial’ models of energy governance. Mommer’s liberalism-proprietorialism continuum of energy governance draws attention to the contrasting features of different energy governance models. However, while Mommer’s original analysis focuses on price outcomes, this section will concentrate on different models in terms of security of supply and political risk and the way they correspond to the state economic functions discussed in chapter two. Presenting Mommer’s framework in this way allows for identification of the liberal and risk-mitigating aspects of European upstream governance and the way these governance structures seek to ensure state economic functions in the subsequent sections.

Through an examination of the overarching macro and the sector-specific meso-level governance structures that the EU promotes in the region (Lavenex & Schimmelfennig, 2009; Lavenex, 2008; Lavenex, Lehmkuhl & Wichmann, 2009), the second section discusses the EU’s promotion of a ‘governance complex’ of different overlapping institutional structures that impact on energy policy in the Caspian. However, as noted by Padgett (2011) and Barbé et al (2009) the EU has difficulty at times externalising its own internal governance structures and, as a result, relies on the promotion of both EU-administered and broader international structures that apply in the energy sector (such as the Energy Charter Treaty and the WTO).

The third section switches focus to the norms and rules of the EU’s Caspian governance complex arguing that EU upstream policy in the region revolves in particular around five energy governance norms (investment protection/promotion, sustainable competition, safety, environmental and technical standard regulatory harmonisation, revenue transparency and multilateralism/regionalism) that seek to reproduce (inter alia) European state-economic functions above in the region and contribute to the EU’s broader role of investment facilitation and risk mitigation.
The fourth and final section follows on from the analysis of risk perception in the previous chapter to consider member state and company convergence on the normative objectives expressed in EU external energy governance in the Caspian. In doing so it highlights both areas of convergence and divergence on EU Caspian energy governance but notes (as in the previous chapter) how the greatest area of convergence surrounds the norms and rules of political risk mitigation.

**CONTRASTING STATE ECONOMIC FUNCTIONS: LIBERAL AND PROPRIETORIAL MODELS OF ENERGY GOVERNANCE AND POLITICAL RISK**

Before turning attention to the EU’s governance structures and the promotion of specific liberal state economic functions in the Caspian, this section discusses different forms of energy governance highlighting their differing objectives and impact on energy security and risk. Mommer (2000) forwards a typological distinction between two ideal-types of energy governance that is useful for understanding different European and Caspian approaches to energy governance. He suggests that oil and gas governance regimes can be located somewhere on a scale between liberal and proprietorial models (Mommer, 2000, p.25). Historically speaking, the clearest examples of liberal models have existed in OECD countries (such as the UK) while the most strident examples of proprietorialism were seen in the states of the Arabian Gulf after the OPEC oil nationalisations in 1973 (Muttitt, 2005, p.3). These different forms of governance outline different patterns of state economic function provision and determine how the benefits of energy production and transit are divided between companies, producers and consumers. In general, the EU favours liberal forms of governance, whereas Caspian countries demonstrate varying (and arguably increasing) levels of proprietorialism.

However, while Mommer’s analysis is most concerned with the benefits of energy in terms of price outcomes (as befits his background as an economist), the analysis below will refer to the impact of these upstream governance models on supply/political risk and the state
economic functions highlighted by Smith (2004). Indeed, as Wälde (n.d.) has noted, consumer governments promote certain forms of international energy governance for security of supply motivations as well as for price reasons. In particular, this section will address these governance frameworks from the point of view of the EU’s reliance on companies and the associated dependence risks of inadequate investment and political risk this entails. As will be demonstrated below, because of its more overtly political objectives, the expanded role for the state and the opportunities for political intervention, proprietorial systems present greater risks for companies, and by implication for the EU. Indeed, a large part of the EU’s efforts to export its governance model relate to attempts to mitigate or at least manage the risk-inducing elements of proprietorialism.

It should be noted that these designations of liberalism and proprietorialism are ideal-types. There is no perfectly proprietorial or liberal model in existence (Wälde, n.d). Nevertheless, as Mommer suggests (2000, p.25), all regimes governing hydrocarbon production and transit (including the EU’s preferred mode of upstream governance) exist somewhere along this liberal-proprietorial spectrum\(^{128}\).

This next sub-section discusses Mommer’s governance typology with regard to four of its prominent normative distinctions; the role of the state, investment processes, the role of competition and the general objectives and beneficiaries. While not a radical liberal regime, the EU’s upstream energy governance in the Caspian approximates most closely to the liberal end of this typology. As such, it reflects an attempt to facilitate markets and to mitigate the risks of state-led proprietorialism in the region in support of the EU’s wider risk mitigation role and security of supply objectives in the Caspian.

\(^{128}\) While contrasting, real world expressions of these forms of governance are linked (to an extent dialectically) as institutional expressions of the opposing interests of many consuming and producing states (Mommer, 2000, p.25). Indeed, they reflect governance manifestations of the “contradictory trends” and “paradigm shifts” between state-led energy politics and market organisation identified respectively by Claes (2009) and Helm (2005) discussed in chapter two. International linkage means that these energy regimes compete both economically and politically with “their national characteristics [forced] to confront, to adjust to, or to screen themselves off from, developments within the international economy” (Mommer, 2000, p.25).
The role of the state

The role of the state is of central importance in energy governance models. Mommer (2000, p.1) notes that in cases where hydrocarbon reserves are publicly owned (which is the case in nearly all countries outside of the USA, including the Caspian) there are two basic options for a state. Firstly, natural resources can be conceived of as “non-property”, not belonging specifically to anyone and therefore a free gift of nature (the liberal approach) or rather, they can be seen as part of the patrimony of a state or people and therefore be subject to more statist/nationalist policies (Mommer, 2000, p.10; Boué & Luyando, 2002, p.10-12). Radical liberal regimes, correspondingly envisage a relatively small role for the state contributing to a greater role and more autonomy for commercial actors (SEF: contributing to collective autonomy) in energy governance. The key relationship from this liberal standpoint is between commercial energy companies and end-consumers. Here, the state’s role is not so much natural resource owner, but rather licensee and regulator (Boué & Luyando, 2002, p.10; Mommer, 2000, p.25). Thus, the actions of the state should be limited to regulatory functions and to adapting to the market relationship between consumers and private companies (Wälde, n.d.). A minimal role for the state in energy in this way correspondingly minimises the political risks associated with state involvement such as investment restrictions, political interference and the infringement of property rights (SEF: protection of property rights, SEF: protection against commercial disadvantage and SEF: contributing to collective autonomy). Indeed, as Wälde (n.d.) notes, aspects of this model were employed to attract investment into numerous areas of high political risk, such as Russia and Kazakhstan in the 1990s and early 2000s. Actions of both states in the mid to late 2000s (see chapter one) saw them move away from this approach however.

By contrast, proprietorial views of energy governance advocate a direct relationship between producer states and end-consumers, with a restricted direct role for overseas or
private companies. This of course has the potential to reverse or dramatically reduce companies’ autonomy and opportunities for investment (SEF: protection against commercial disadvantage and SEF: contributing to collective autonomy) (Boué & Luyando, 2002, p.12). This approach sees governments as the guardian of the state's resources that should be used for national advancement and socio-economic development. This might involve for example, pursuing local content rules, where companies are obliged to employ a certain number of nationals from the host country or to purchase a certain level of services or goods from local suppliers. As will be described further in chapter seven, local content has become a key political issue in Kazakhstan (Yerkebulanov, 2012).

Most fundamentally, however, the proprietorial approach aims at ensuring collection of a politically acceptable level of economic return. From this perspective, a direct role for the state in energy production is legitimate and necessary in that it guarantees that the state receives a ‘fair’ proportion of benefits from energy exploitation. Countries like Kazakhstan, Azerbaijan and Turkmenistan rely very heavily indeed on their energy export revenues. Of course, what is ‘acceptable’ or ‘fair’ is highly subjective and varies considerably, but states operating such a model must be prepared to intervene to ensure that the state receives an acceptable return from energy operations. Normally this function is ensured by national oil companies (NOCs) such as Kazmunaigaz in Kazakhstan and SOCAR in Azerbaijan, who present a window onto the industry and act as a form of surveillance in consortia overseeing and monitoring foreign companies and maximising revenues (Mommer, 2000, p.22). As was discussed in the previous chapter however, states will sometimes ensure NOC involvement in major projects through coercive means, as is alleged in the Kashagan and Karachaganak cases in Kazakhstan. This form of arrangement raises a substantial contradiction however from a liberal perspective in that the state emerges as both regulator (usually via the oil and gas ministry) and a participant in the hydrocarbon

129 State involvement of this nature, may also involve supplying the local population with energy at subsidised prices (Mommer, 2000, p.10).
production that it regulates (via the involvement of national companies). Some Western companies operating in Kazakhstan have highlighted the contradiction between the national oil company Kazmunaigaz’s (KMG) role as both an equity partner in projects such as Kashagan and position as the state’s ‘recognised authority’ with responsibility for regulatory matters such as approving ongoing investment decisions (US Department of State, 2010c). While managers at KMG are thought to try to run the company along commercial lines, senior Western energy company officials argue that “political directives win the day” (US Department of State, 2010c). Similarly, another Western energy company official noted “that the people seconded to Kashagan from KMG represent the government not the project” (US Department of State, 2009c). Examples have been given where companies have outvoted KMG in board meetings on the Kashagan project only to have their decisions vetoed by KMG in their role as the approving regulatory authority (US Department of State, 2009c). Some Kazakh officials note however that by partnering with KMG (even if this is due to alleged forced acquisitions by the Kazakh Government) foreign companies are likely to be subject to less political interference and pressure from government than they otherwise might\textsuperscript{130}. Nonetheless, such decisions limit their room for commercial manoeuvre and their ability to fully exercise their property rights (as conceived in a liberal sense).

\textit{Investment processes}

Liberal governance regimes, such as those promoted by Western OECD countries, aim to maximise the free flow of investment and guarantee the unhindered development of hydrocarbon resources so as to ensure that supply meets levels of demand (Mommer, 2000, p.2; Boué & Luyando, 2002, p.9). Taxes levied on oil and gas production should, under a radically liberal regime, aim solely at taxing profits so as to minimise the impact on investment decisions (SEF: protection against commercial disadvantage and SEF:  

\textsuperscript{130} Interview Former Kazakh Government Official [32], Astana, Summer 2012
contributing to collective autonomy). Under these circumstances tax take on marginal (break-even) energy resources should be zero, meaning that it is the market price alone (not government taxes) that determines whether a company should invest - ensuring a direct link between consumer demand and supply and ensuring maximum levels of investment (Boué & Luyando, 2002, p.9-10; Mommer, 2000, p.2)\(^{131}\). From this perspective, companies should be guaranteed broadly unrestricted access to energy resources with consumers ultimately benefiting through increased supply and access to oil at the cost of extraction plus profit taxes and company profits (themselves moderated by market competition) (Mommer, 2000, p.10). Ultimately, liberal investment frameworks should fit and flex around prevailing economic market conditions so as to guarantee a continued flow of investment into oil and gas production, adequate supply, a diversified range of producer sources and counterparties as well as lower prices (Mommer, 2000, p.19; Egenhofer & Legge, 2001). Consequently, liberal governance frameworks tend to promote long and ongoing lease times for companies as disruptions between different leases can lead to inefficiencies and production declines (Mommer, 2000, p. 16). Such arrangements increase stability for companies and reduce uncertainty and risk. Likewise, active political risks such as forced contract changes or regulatory discrimination that could impinge on property rights and hinder investment must be minimised and guarded against (SEF: protection of property rights). Again, this view of investment calls for a curtailing of the state’s rights to change taxes or impose restrictions or conditions (after an initial agreement) that might impede companies’ autonomy and thus limit or deter future investment in the oil and gas sector (SEF: contributing to collective autonomy). The importance of investment protection in EU Caspian energy governance will be further highlighted below.

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\(^{131}\) Muttitt argues that the UK’s governance regime corresponded to this model in the 1990s (2005, p.9). He notes that publically owned oil was extracted by companies under license from the government. Under this model, companies paid no fees to the government for extraction with the exception of corporation tax on their business profits, the same as any other business (Muttitt, 2005, p.3). He likens it to an agricultural company being allowed to grow crops on a field they did not own without paying any rent and only being required to pay tax on the profits from those crops.
Proprietorial regimes, by contrast, operate to a set of more overtly political objectives and additional constraints. Investment decisions in this case are not granted on the basis of whether they meet levels of demand but rather whether they will produce sufficient economic rents for government (Boué & Luyando, 2002, p.10-11; Mommer, 2000, p.19). Ensuring sufficient economic rent usually takes the form of royalty payments levied in addition to the taxes paid on company profits with states likely to block access to reserves that will hinder the collection of sufficient rents (Boué & Luyando, 2002, p.10-11; Mommer, 2000, p.19). Thus, in contrast to a liberal regime, investment conditions under a proprietorial regime flex around the political and fiscal objectives of producer governments rather than levels of international supply and demand or the profitability of accessing reserves for companies (Boué & Luyando, 2002, p.11; Mommer, 2000, p.19). These restrictions apply even on marginal (break-even) barrels of oil, meaning that oil that would be profitable at lower market prices under a liberal regime is not profitable under a proprietorial regime with the consequence that investment is not made and the oil supply stays in the ground. The outcome of this is higher prices for consumers (than would be expected under a liberal regime), but a greater fiscal take for the host state (Mommer, 2000, p.19). Furthermore, (and again in contrast to the liberal view) the proprietorial perspective on upstream energy production does not favour long leases in exploration but rather relatively shorter contracts that allow for regular opportunities to renegotiate rent returns when market or political conditions change (Mommer, 2000, p.21; Boué & Luyando, 2002, p.11). Such an approach runs counter to provision of the liberal state economic functions discussed above (particularly SEF: protection of property rights). Indeed, the strong political logic behind proprietorial regimes means that, at times, states may feel the need to intervene directly in markets to renegotiate conditions for foreign (and domestic) companies to ensure certain political objectives and a politically acceptable level of rent is met (as was arguably the case in Kazakhstan with the Karachaganak and Kashagan cases – see chapter one and chapter seven). Such objectives,
however, create the latent potential for political risk from the perspective of foreign investors.

**Competition**

Liberal and proprietorial governance types have contrasting perspectives on competition. From the liberal point of view, a level playing field and competition (SEF: protection against commercial disadvantage) between companies in both the upstream and downstream is to be encouraged to diversify the supply base of counterparties and drive down prices for end consumers, benefitting them and benefitting the governments of energy importing states who can then either tax their citizens more on energy products (with little or no economic impact as prices remain the same) or reduce taxes (to positive political effect) (Bridge & Le Billon, 2013, p.22). As Bridge and Le Billon (2013, p.22) note, taxes on energy consumption in importing countries allow a number of consuming governments to earn more revenue from energy taxes than some hydrocarbon producing states do from energy exports. Likewise, as discussed in the previous section, increased competition and open markets in producer countries is beneficial from a security of supply standpoint as it increases the diversity of producers and companies that supply a given market (such as the EU), thus reducing both producer and counterparty risk. The EU’s efforts to promote competition are discussed further in this chapter below.

However, from the proprietorial perspective, foreign companies should be transformed from active production partners into service providers to the national oil company when (and only when) their particular capacities are needed (Mommer, 2000, p.22; Boué & Luyando, 2002, p.11). This type of arrangement would guarantee foreign companies a profit (otherwise they would not participate) but would ensure that they did not receive excess profits (rents) as their payment is not tied to final end consumer prices. In contrast to the liberal model, the benefits of competition between companies in this case would not be passed on to consumers but rather would be collected by the host producer state in the
form of higher rents (Mommer, 2000, p.22). Likewise, such an arrangement would present increased security of supply risk by combining counterparty and source into one actor. Under these circumstances, companies would no longer be supplying oil or gas and the total supply from one producer source would be provided by one national company, concentrating the risk considerably. As it stands, Caspian states do not have the technological of financial weight to conduct operations in this fashion and there are reasons related to the spreading of risk (discussed in chapter seven) why they might wish to maintain Western company involvement. Nonetheless, both Kazakhstan and Azerbaijan show a clear desire to increase the role of their state-owned companies in the hydrocarbon sector (as one would expect).

**Contrasting objectives and beneficiaries**

Ultimately, liberal and proprietorial regime types have contrasting overall objectives (see fig. 5 below) The first seeks to facilitate open and secure investment in hydrocarbon production, limit the role of the state and encourage investment access so as to guarantee a diversified base of counterparties, reduced source risk and low prices for consumers (as well as the potential for downstream rent collection by consumer governments). As such, it reflects the interests of import-dependent countries (such as those of the EU) and is predicated on provision of a number of the state economic functions discussed above (in particular property rights, protection against commercial disadvantage and autonomy). Lower prices for consumers benefit energy-consuming actors such as the EU (and even those like the UK that produce oil and gas) because the majority of their citizens and businesses rely on affordable energy prices and because low prices mean that consuming governments can capture rent themselves via taxes (on petrol for example) without negatively affecting economic growth. In addition, and as discussed below, as Mommer (2000, p.11) notes, this liberal approach in energy is an example of the broader global trend towards liberal trade and free-market models, as embodied globally in the World
Trade Organisation (WTO) which envisages a reduced role for the state. Companies also benefit, at least in the upstream, through open investment access and strong property rights protection, although they should be in theory subject to competition from other companies especially in the downstream (which, as described in chapter one, companies have consistently campaigned against with support in some cases from home governments).

*Fig. 5: Liberalism and proprietorialism in energy governance. Source: own elaboration.*

By contrast, proprietorial models aim to achieve a politically acceptable level of rent for the producing state so as to meet fiscal spending requirements, risking the liberal state economic functions mentioned in the paragraphs above (Mommer, 2000, p.2; Boué & Luyando, 2002, p.11). This model reflects the national (and arguably elite) interests of energy-producing states, such as those in the Caspian, whose economies, development programmes and in many cases political stability and legitimacy rests on the maintenance of minimum level of revenue for state budgets. As described in the first chapter, this reliance on energy revenues is deeply entwined with the *rentier* political systems of Caspian energy-producing states. Indeed, their tendencies towards proprietorial models of
energy governance reflect their dependence on flows of energy revenue and a consequently different range of state economic functions. As mentioned above, increased state assertiveness and changes to mineral laws in Kazakhstan can be seen as a shift towards proprietorialism (albeit not a complete shift as in full-scale nationalisation). Here beneficiaries should include the populations of oil and gas producing states that, in theory at least, benefit in the form of lower taxes and better quality public provision. Undoubtedly, however, given the often corrupt and authoritarian nature of many producing states plus the effects of the resource curse, economic and political elites within these countries are also likely to benefit, in some cases very disproportionately. Furthermore, proprietorial models of governance, especially in regions where the rule of law is weak and political systems are personalised such as the Caspian, create a strong incentive for governments to intervene directly in energy markets to ensure a politically acceptable level of rent, fostering in turn the potential for property right infringements, commercial disadvantage and reduced autonomy – all political risks from the perspective of foreign investors.

THE ENERGY GOVERNANCE COMPLEX IN THE CASPIAN: THE INSTITUTIONAL STRUCTURES OF LIBERAL MILIEU-SHAPING

Following the discussion of liberalism and proprietorialism above, this section analyses the institutional dimensions of the EU’s upstream governance in the Caspian. Specifically, this section outlines the ‘governance complex’ of institutional structures that the EU promotes in the region. As noted above, when promoting governance structures, the EU prefers to establish EU-led institutions and export its own EU acquis rules. However, as Barbé et al (2009, p.835) have noted, when it lacks capacity or legitimacy to enact convergence around the EU rules, as is the case in the Caspian (Padgett, 2011), the EU promotes institutions and rules that are international in character rather than strictly

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132 The Energy Community Treaty, with an EU-administered secretariat and requiring signatories to adopt the full EU energy acquis, is the clearest example of this.
European. For example, as well as EU institutions such as INOGATE/the Baku Initiative, the EU also promotes other international institutions such as the WTO and the Extractive Industry Transparency Initiative that are neither EU institutions nor controlled by EU member states. Nevertheless, these bodies do reflect strong EU involvement and entail normative frameworks with regard to energy that approximate broadly with EU preferences (even if they differ in some ways from the EU acquis or are not as extensive as the EU would like). Thus, as will be discussed below, while the EU has established EU-led macro institutions in the Caspian region (such as the Central Asia strategy), it also promotes its objectives through meso, sectoral-level governance structures that tend to be a mix of both European and broader ‘Western’ international institutions.

**Macro and meso structures**

Lavenex, Lehmkuhl and Wichmann (2009) argue that EU external governance can be broken down into macro and meso (sectoral-level) structures. Rather than acceding to existing EU institutions, as new EU member states do, in the case of the EU’s external promotion of governance with its wider neighbourhood, new overarching macro-level institutional frameworks are established collectively by the EU to facilitate meso-level, long-term sectoral convergence between the EU and periphery states (see fig. 6 below).

Macro structures constitute an institutional “roof” over more sector-specific meso structures and, as overarching policy frameworks, “lay down the overall goals and instruments” of EU-periphery relations (Lavenex, Lehmkuhl & Wichmann, 2009, p.3). Such structures result from EU negotiations with third party countries but are ‘EU’ structures in that they are established and administered by EU institutions (Commission and EEAS) in conjunction with third parties (Lavenex, Lehmkuhl & Wichmann, 2009, p.3). Through this process, these structures come to determine areas of cooperation, the level of approximation and the rules and basis (EU or international) on which this approximation will take place. Macro structures can be multilateral or bilateral.
Meso institutions, by contrast, relate to “sectoral modes of interaction” (Lavenex, Lehmkuhl & Wichmann, 2009, p.3). Meso policies tend, where possible, to represent the externalisation of internal EU rules and are motivated by “functionally-driven answers to situations of interdependence and the externalities produced within individual sectors” (Lavenex, Lehmkuhl & Wichmann, 2009, p.3). However, as noted above, sectoral energy cooperation may take place within institutional structures that are not European (in that they are not established or administered by the EU), but rather Western or international in nature\(^{133}\). International structures such as the WTO, as Barbé et al (2009, p.835) note, may enjoy more legitimacy than EU rules and frameworks.

Meso structures may also transcend different macro structures. To give an example from energy in the Caspian, the Baku Initiative forum for energy cooperation (an EU-administered meso-sectoral structure) extends to countries that are in both the Eastern Partnership and ENP (macro structures in Eastern Europe and the Caucasus) and the Central Asia Strategy (macro structure in Central Asia).

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\[^{133}\] Of course Caspian states also take part in other non-Western governance structures such as the Shanghai Cooperation Organisation’s ‘Energy Club’ – see Stoddard (2012).
Macro structures and meso sectoral-level structures in the Caspian energy governance complex

The EU has neither a single external energy governance policy nor a unitary comprehensive energy governance institutional framework in the Caspian Sea region. Rather, the EU's Caspian energy governance consists of an overlapping clustered arrangement of macro and meso structures that can be characterised as a “governance complex” (Keohane & Victor, 2010) (see fig. 7 below).

Fig. 7: The Caspian energy ‘governance complex’. Source: Own elaboration.

The EU has three primary overarching multilateral macro structures in this Caspian governance complex; the European Neighbourhood Policy, the Eastern Partnership (both of which apply to Azerbaijan) and the Central Asia Strategy that covers Kazakhstan and Turkmenistan (as well as Uzbekistan, Tajikistan and Kyrgyzstan). While focusing on a broad number of policy sectors (rule of law, democracy, trade, education etc.), each of these encourages cooperation in energy, sets out general energy objectives and establishes

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134 This concept is borrowed from Keohane and Victor's discussion of "regime complexity". For the application of regime complexity to the Caspian region see Stoddard (2012).
a number of fora for dialogue and coordination. Due to space constraints, the discussion of macro structures below concentrates specifically on the Central Asian Strategy.

The Central Asia Strategy lists energy (and transport) as the fourth, and economic development, trade and investment as the third of its seven priority cooperation areas (EU, 2009, p.19-22). The Strategy outlines a number of objectives in energy. Inter alia, it discusses aims of establishing a Central Asian energy market, convergence on EU energy market principles, rehabilitating regional infrastructure, attracting investment, enhancing transparency and promoting energy efficiency (EU, 2009, p.23). It also notes the need for a market-based approach to investment and the need for stable and non-discriminatory regulatory frameworks in energy (EU, 2009, p.22).

Trade and economic development have particular significance in terms of energy in Central Asia where, in the case of Kazakhstan for example, 80% of trade with the EU is in crude oil135. Likewise, EU officials note how dealing with post-investment challenges represents a particularly core area of energy policy in Kazakhstan given that some of the EU’s biggest energy companies (TOTAL, Royal Dutch Shell, Eni to name a few) have very sizable investments in the country136. Indeed, the Central Asia Strategy highlights EU support for Central Asian states' WTO membership and notes how the EU will help create “regulatory and institutional frameworks for an improved business and investment environment and further support economic diversification” (EU, 2009, p.19). In this endeavour the EU notes how it “will cooperate with interested companies from the EU in a public-private partnership to promote the market economy” (EU, 2009, p.20). Furthermore, the Central Asia Strategy establishes regular political dialogues between the countries of Central Asia and the EU (where energy matters are discussed) and dedicated energy dialogues for (often more technical) energy discussions (EU, 2009, p.11) (see next chapter on energy diplomacy).

135 Interview EU Official [27], Astana, Summer 2012.
136 Ibid
Bilaterally, the EU’s relationships with Caspian states are governed by Partnership and Cooperation Agreements (PCA). Unlike the Central Asia Strategy, which is essentially a political/strategic document, the PCA is a comprehensive bilateral legal document that forms the legal basis of EU-Caspian state relations. It has a number of provisions in the case of energy and trade that apply to the energy sector. In terms of energy, the Kazakh PCA notes the intention to cooperate in improving the energy sector “in line with a market economy”, energy supply and diversification, investment attraction, modernisation of infrastructure and energy efficiency (EU, 1995, p.29). In terms of trade, Article 23 of the PCA stipulates that both parties offer most-favoured nation treatment to businesses from the other party (EU, 1995, p.14). However, Article 34 notes that these provisions can be overridden on the basis of “public policy, public security or public heath” (EU, 1995, p.20). Likewise, Article 46 on investment only calls on parties to “aim to establish a favourable climate for investment [emphasis added]” (EU, 1995, p.20). The PCA is nonetheless important as it provides the legal basis for EU action in the event of a dispute with a third country in the Caspian (along with the Energy Charter Treaty)\textsuperscript{137}.

Beyond these macro structures however, energy cooperation in the Caspian region is also regulated via meso-sectoral regimes that focus specifically on the energy sector. In oil and gas, the EU actively promotes a number of EU and international sectoral energy level structures in the region. Here there is less division between the Eastern and Western sides of the Caspian as meso structures tend to be trans-Caspian (or broader) in nature reflecting the transnational character of transport routes, the geographical spread of energy production and the EU’s support for increased multilateralism/regionalism.

EU officials cite the Energy Charter Treaty, the Baku Initiative and the Extractive Industry Transparency Initiative (EITI) as the three most important specifically energy-focused

\textsuperscript{137} At present the EU is in the process of negotiating an Enhanced PCA agreement with Kazakhstan that will, according to the European Commission, “bring about better conditions for the trade and investment relations between the two parties” (EC, 2012b).
governance structures in the region\textsuperscript{138}. Indeed the Council of Ministers reiterated the importance of these three regimes in recent council conclusions on Central Asia (Council of the European Union, 2012, p.3). Likewise, in interviews, EU officials often also describe WTO accession as a crucial energy governance objective in the Caspian region\textsuperscript{139}.

As will be discussed further below, one of these four, the Baku Initiative, is a specifically ‘EU’ institution in that it was established and is administered by the EU. The other three (WTO, Energy Charter and EITI) in line with the observations of Barbé et al (2009) discussed above, are broader international institutions or initiatives. However, while not administered by the EU, these sectoral structures are nonetheless promoted by the Union for energy policy reasons in the Caspian region. Each of these meso structures in now discussed in turn.

The Baku Initiative (also known as the enhanced INOGATE programme), established by the EU in 2004 and expanded at a meeting of foreign ministers in Astana in 2006, aims to further cooperation in energy between the states of the Black and Caspian Seas through a harmonisation of standards based around EU internal market rules. The four priority areas of the Baku Initiative are laid out in detail in the Astana Roadmap of 2006. They include: 1) “the converging of energy markets on the basis of the EU internal energy market principles taking into account the particularities of the partner countries”; 2) “enhancing energy security by addressing the issues of energy exports/imports, supply diversification, energy transit and energy demand”; 3) “supporting sustainable energy development, including the development of energy efficiency, renewable energy sources, and demand side management”; and 4) “attracting investments towards energy projects of common and regional interest” (EC, 2006a, p.1).

\textsuperscript{138} Interview EU Official [31], Astana, Summer 2012

\textsuperscript{139} Ibid
While the Baku initiative has wide ranging liberal objectives, it is important to note that the short-term expectations for the Caspian region (and Central Asia in particular) are more limited. For example, while the second priority area of cooperation on enhancing energy security envisages (*inter alia*) open and non-discriminatory access to investment in energy resources and networks in participating countries (in line with the liberal model of governance discussed above), the “approved actions” for the Central Asia region (those parts that Central Asian governments have agreed to) do not mention this objective, focusing instead on less politically sensitive issues such as the rehabilitation and building of new infrastructure, enhanced maintenance and the installation of new metering facilities (EC, 2006, p.7).

The Energy Charter Treaty (ECT), while not an ‘EU’-institution, is an important part of European governance in the Caspian. Konoplyanik (former Deputy Secretary General of the Energy Charter Secretariat) and Wälde (2006, p.524) note that the European Energy Charter (signed in 1991) and the legally-binding follow-up Energy Charter Treaty (signed in 1994) were born out of a European need to diversify energy supplies (primarily from the Middle East) and the chronic need and potential for investment in the energy sectors of the Newly Independent States (NIS) of the Former USSR. All former Soviet states in the Caspian region are signatories (except for Russia). Despite being promoted from the beginning by European states and the European Commission, the epithet ‘European’ was dropped before the signing of the ECT in 1994, reflecting the broader scope and wider regional remit of the ECT\(^{140}\). The Energy Charter Treaty is thus not an ‘EU’ treaty (although the European Commission is a signatory) and the Energy Charter is not an EU institution. Rather, it is an independent international organisation administered by an international secretariat (the Energy Charter Secretariat) headed by a secretary general appointed by the Energy Charter member states. As such, EU support for the ECT is one example of the EU supporting an institution in energy that is not specifically European. However, as

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\(^{140}\) Interview Energy Charter Secretariat Official [36], Brussels, Summer 2012
described below, the ECT is both ‘European’ (and more broadly ‘Western’) in its political and legal heritage.

In addition to facilitating the diversification of European energy supplies and the attraction of inward investment into the former Soviet Union, the ECT was hoped to provide a means of bringing Europe and the Former USSR together, both economically and politically, and in doing so further reduce residual tensions from the Cold War (Konoplyanik & Wälde, 2006, p.525). In particular however it also sought to initiate former Soviet states into liberal trade practices based on the WTO (then GATT) rules contained within the ECT. It was assumed that all ECT members would join the WTO and thus the ECT was seen as a first step towards WTO membership and full trade liberalisation by allowing transition states to gain experience of the WTO practices and rules (Konoplyanik & Wälde, 2006, p.542).

The Energy Charter Treaty sets out provisions in five main areas that correspond to the liberal forms of governance described above (Konoplyanik & Wälde, 2006, p.525):

- The protection and promotion of foreign energy investments, based on the extension of national treatment, or most favoured nation treatment (whichever is more favourable);
- Free trade in energy materials, products and energy-related equipment, based on GATT/WTO rules;
- Freedom of energy transit through pipelines and grids;
- Reducing the negative environmental impact of the energy cycle through improving energy efficiency;
- Mechanisms for the resolution of state-to-state and/or investor-to-state disputes.
While the ECT is an international treaty, its provisions are strongly influenced by three areas of international and European law. Firstly, a large number of bilateral investment treaties (roughly 500 at the time of the ECT negotiations) and the investment chapter of the North American Free Trade Area provide the substantial basis for the investment aspects of the ECT (Konoplyanik & Wälde, 2006, p.528). Secondly, EU law on the licensing of upstream resources, transit, utility procurement and non-discriminatory access form an integral part of the ECT. Thirdly, the provisions under the trade chapter of the ECT are essentially those of the GATT in 1994 (Konoplyanik & Wälde, 2006, p.528). That the provenance of these laws is found in Western trade regimes sheds light on the ECT’s intellectual-political heritage and liberal nature.

The WTO is also seen by EU officials as an important part of the governance of energy in the Caspian\textsuperscript{141}. Whilst energy did not feature specifically in the negotiations of the GATT and whilst no agreement on natural resources was reached at the Uruguay round of trade negotiations that established the WTO in 1995, \textit{generally applicable} trade provisions of the WTO do relate to trade in energy products (Selivanova, 2007, p.11; p.37). As such, EU officials place a lot of stress on the potential role of the WTO in Caspian energy governance. One EU official referred to the WTO as the biggest priority in energy from a trade point of view and as a form of ‘panacea’ in terms of energy\textsuperscript{142}. They argued that WTO accession would encourage minimum standards in energy trade and investment ensuring the free movement of capital derived from energy production and transit, investment security and reduced tariffs and restrictions (such as local content requirements)\textsuperscript{143}. Another EU official concurred, stating that EU energy policy in the Caspian was in part about the promotion of “WTO rules” in energy\textsuperscript{144}. EU officials assert that WTO accession is important in terms of energy policy for two reasons. Firstly, the WTO is highly symbolic

\textsuperscript{141} Interview EU official [4], Brussels, Summer 2011
\textsuperscript{142} Ibid
\textsuperscript{143} Ibid
\textsuperscript{144} Interview EU official [31], Astana, Summer 2012
and thus has the potential, it was argued, to positively impact on Caspian state behaviour. Secondly, the dispute mechanism of the WTO can be initiated in the case of any disputes, including in energy\textsuperscript{145}. This is felt to be beneficial as the process of dispute resolution in the WTO is less political than direct bilateral negotiations. However, these measures can only be initiated once a state has acceded to the WTO, making WTO accession for Caspian states (all of whom are yet to join) a priority in energy policy, as well as a broader trade objective\textsuperscript{146}.

Finally, while Mommer did not discuss transparency in his typology, transparency initiatives are deeply liberal in orientation. In the Caspian region, the EU promotes transparency by encouraging Caspian states to join the Extractive Industry Transparency Initiative (EITI). Originally put forward by the UK Government under Tony Blair, the EITI represents one of the most notable areas of EU support for transparency in third party countries. The EITI (again an international energy governance regime) seeks to improve transparency by requiring natural resource companies to publish their payments to host governments and governments to publish receipt of these payments. These processes are audited by independent accountants and validated by the EITI multi-stakeholder group composed of governmental, civil society and energy company officials (EITI Secretariat, 2013a, p.1). The European Commission participates in the board of the EITI and in the EITI Multi-Donor Trust Fund administered by the World Bank (EITI Secretariat, 2010). Twelve EU member states are also donors and supporters of the initiative (EITI Secretariat, n.d. [a]). Discussed in the Central Asia Strategy (EU, 2009, p.24), EU officials stress the importance of encouraging transparency in upstream markets to improve both

\textsuperscript{145} Interview EU official [4], Brussels, Summer 2012

\textsuperscript{146} Furthermore, the EU cannot negotiate planned ‘deep and comprehensive free trade agreements’ (that would have energy stipulations) with a periphery country without WTO membership as to do so would effectively have to include and be compatible with WTO provisions or the DCFTAs would need to be re-negotiated on neighbourhood country WTO accession – Interview EU official [26], Brussels, Summer 2012
the governance and the investment climate\textsuperscript{147}. EU officials argue the merits of the EITI in this regard but note that obtaining EITI validation in Kazakhstan has been difficult\textsuperscript{148}. Certain ministries such as the Ministry of Energy and Mineral Resources (MEMR), energy companies in Kazakhstan (such as KazMunaiGas) and non-energy natural resource companies (such as KazZinc) have historically failed to take the EITI seriously or shown little interest in the process (US Department of State, 2009c). More recently, the Kazakh Government has also apparently become suspicious that a failure to validate the EITI is a politically-motivated bid to present Kazakhstan in a bad light\textsuperscript{149}. Nonetheless, the EU puts considerable effort into promoting the EITI in Kazakhstan. The EU Delegation in Astana, for example, organises a regular EITI group with member states. EU officials highlight concerted efforts to develop a coordinated message on the EITI between member states, the EU institutions and the EITI Secretariat in Oslo towards the Kazakh Government\textsuperscript{150}

**MILIEU-SHAPING AND STATE-ECONOMIC FUNCTIONS: NORMATIVE CHARACTERISTICS OF THE ENERGY GOVERNANCE COMPLEX IN THE CASPIAN**

In assessing the EU’s energy governance complex in the Caspian, it is useful also to focus on the normative premises on which this complex is founded. Doing so facilitates an understanding of the commonalities between different governance institutions, outlines more clearly the objectives the EU is seeking to (collectively) advance through this complex and highlights how they contribute to the provision of state economic function in the Caspian upstream.

This section proposes that the EU’s external energy governance in the Caspian region can be broken down analytically into the promotion of five broad governance norms, namely: investment protection/promotion, sustainable competition, safety/technical and

\begin{footnotesize}
\textsuperscript{147} Interview EU official [31], Astana, Summer 2012
\textsuperscript{148} Ibid
\textsuperscript{149} Ibid
\textsuperscript{150} Ibid
\end{footnotesize}
environmental standard regulatory harmonisation, revenue transparency and multilateralism/regionalism. As Table one (below) highlights, the normative premises on which EU Caspian energy governance is built tend to be quite consistent across the EU’s governance complex.

<table>
<thead>
<tr>
<th></th>
<th>Investment Protection</th>
<th>Competition</th>
<th>Transparency</th>
<th>EU Standards Harmonisation</th>
<th>Multilateralism and/or regionalism</th>
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<td>yes</td>
<td>yes</td>
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</tr>
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<td>yes</td>
<td>yes</td>
<td>Multilateralism and regionalism</td>
</tr>
<tr>
<td>Strategy</td>
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<td></td>
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</tr>
<tr>
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<td>yes</td>
<td>no</td>
<td>partially (by default)</td>
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<tr>
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</tr>
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<td>no</td>
<td>no</td>
<td>Multilateralism</td>
</tr>
</tbody>
</table>

Table 1: Consistency of normative preferences in the Caspian energy governance complex.
Source: Own elaboration.

As will be discussed below, these normative preferences fit along the liberal end of the liberal-proprietorial scale of governance regimes described above and further, in particular, the protection of property (SEF: protection of property rights), commercial advantage and/or defence against disadvantage (SEF: provision of competitive advantage and SEF: protection against commercial disadvantage) and collective autonomy for economic agents operating in the region (SEF: contributing to collective autonomy).
Investment protection and promotion

In line with the liberal model described above, improving the investment climate and protecting property rights once investments are made (SEF: protection of property rights and SEF: contributing to collective autonomy) are particularly important normative objectives of EU external energy governance. EU documentation such as the 2006 Green Paper on energy, the 2007 Energy Policy for Europe communication and the Second Strategic Energy review all discuss the importance of a stable investment climate (EC, 2006b; EC, 2007a; EC, 2008b). The Commission’s Energy 2020 communication (2010a) notes specifically that “essential for EU security [...] are good governance, respect for the rule of law and protection of EU and foreign investments in energy producing and transit countries” (p.18). This is especially true in a region such as the Caspian where, as described in the previous chapter, the investment climate is often weak, unpredictable and open to government intervention. Ensuring that producer states do not forcibly alter conditions for investors rates as one of the highest priorities for EU officials working on the Caspian region.

The Central Asia Strategy calls for “a market-based approach to investment” and “stable and non-discriminatory regulatory [investment] frameworks” (EU, 2009, p.22). Indeed, strengthening the legal and regulatory climate so as to reduce the risk to company operations and to attract investment is a core EU objective underlying both the desire to extend the WTO to Caspian states and to support the Energy Charter Treaty in the Caspian. The core principles here relate to the protection of property rights, and to non-discrimination in particular, where states agree to offer most-favoured nation (MFN) or national treatment (whichever is the more preferable) to investors (Konoplyanik & Wälde, 2006, p.529) - these two rules supporting SEF: protection of property rights, SEF: protection against commercial disadvantage and SEF: contributing to collective autonomy.

151 Interview EU Official [1], Brussels, Summer 2011
The promotion of these legal frameworks and related issues are discussed regularly with Caspian countries at PCA meetings (Cooperation Councils and Committees) and in energy Memoranda of Understanding (MOU) meetings\textsuperscript{152}.

The Baku Initiative approaches the question of investment more from the perspective of investment attraction rather than protection, calling for cooperation in the “further improvement of the investment climate in order to facilitate investment in the energy sector” (EC, 2006a, p.8). Nevertheless, in reality, investment attraction and promotion are inherently interconnected. Investors are unlikely to be attracted to invest in a market where their investments are not seen to be secure. However, improving the investment climate is rarely presented as being in the EU’s interest in official documentation, but rather as essential for the diversification and internationalisation of Caspian states’ economies – objectives shared by these states (EC, 2006a, p.8; EU, 2009, p.19).

Investment protection is a particularly key issue for EU officials in Kazakhstan where three quarters of EU investment is in the energy sector\textsuperscript{153}. As noted previously, the Kazakh investment climate is perceived by some to have deteriorated in recent years (Suleimenov & Osipov, 2010, p.5). Indeed, EU and member state officials agree that, as Kazakhstan has grown more prosperous in recent years, the government has grown more assertive and the investment climate has correspondingly deteriorated. At the same time some of Europe’s biggest companies (Total, Shell, Eni) have very substantial energy investments in Kazakhstan. While European companies continue to invest in the country, EU officials cite a number of issues that continue to create risks, including the highly personalised political system which (as described in the previous chapter) inhibits decision-making and presents legal uncertainty for investors\textsuperscript{154}.

\textsuperscript{152} Interview EU Official [5], Brussels, Summer 2011
\textsuperscript{153} Interview EU Official [27], Astana, August 2012
\textsuperscript{154} Ibid
Sustainable competition and “levelling the playing field”

Again reflecting the liberal conception of European energy governance, increasing competition in Central Asia represents a core EU normative objective (SEF: provision of competitive advantage and SEF: protection against commercial disadvantage). EU-Central Asia Strategy notes, for example, that “a market-based approach to investment and procurement and transparent stable and non-discriminatory regulatory frameworks guarantee, for all sources of energy, the best prices and increased opportunities for all stakeholders” (2009, p.22). The energy provisions of the Partnership and Cooperation Agreements (PCAs) with Kazakhstan and Azerbaijan also both note that cooperation in energy is to “take place within the principles of the market economy” (EC, 1995; EC, 1996).155

Increased competition through the externalisation of market-based rules ranks amongst the top EU energy governance priorities in the region156. Competition in the Caspian region relates to what EU officials refer to as ‘levelling the playing field’ for European companies vis-à-vis state-owned national counterparts157. Likewise, officials from the Energy Charter Secretariat also stress the ‘levelling of the playing field’ between market participants as a core objective of the ECT158. EU officials note, however, that competition must be sustainable in the sense that while lower prices brought about by competition are good for the EU, prices must not fall below that which is sufficient to attract future hydrocarbon investment159.

There are multiple dimensions to competition in the Caspian however. Analytical distinctions can be drawn between competition in the domestic markets of Caspian states

155 The new enhanced PCA with Kazakhstan and the new Association Agreement with Azerbaijan, both currently being negotiated, will include deepened engagement on energy (Lussac, 2010b; Sopinska, 2011).
156 Interview EU Official [27], Astana, Summer 2012
157 Ibid
158 Interview, Energy Charter Secretariat [36], Brussels, Summer 2011
159 Ibid
(generally between domestic market players and the reduction of the role of state monopolies), competition relating to the involvement of foreign oil companies and their relations with state companies and competition relating to international trade. In the internal sense, EU objectives include increasing the sustainability of Caspian states’ energy systems, reducing subsidies that place a burden on state budgets\textsuperscript{160}, and ensuring competitive practices that will encourage adequate investment both from private actors, the government and international finance institutions (IFIs) in domestic infrastructures.

However, competition also relates to practices concerning the actions of international oil companies and the establishment of equal treatment between them and national (and other international) players. Often there is a strong degree of overlap between these two spheres. Intellectually speaking, both approaches are underpinned by the same market-based logic. Domestic competition objectives are however more driven by a marketization-as-route-to-development logic and most of these objectives are correspondingly pursued under the auspices of the Baku Initiative with the involvement of DG DEVCO, INOGATE and DG ENERGY (see EC, 2006a, p. 4-5; p.8-10). Competition in relation to the involvement of foreign capital (including equal non-discriminatory treatment and access to markets) and competition relating to trade have more of a strategic edge for the EU - predicated on the mix of commercial and security objectives discussed previously. These objectives are pursued through the ECT/WTO and EU trade agreements, falling more squarely under the remit of DG TRADE and DG ENERGY (and potentially the EEAS in terms of disputes). The division of labour between EU institutions in foreign energy policy will be further discussed in chapter six.

While the ECT contains strict rules with regard to the post-investment phase, it is less strong on competition in terms of market access. Here states’ “permanent sovereignty over national resources” (Article 18 of the Energy Charter Treaty) pertains and despite

\textsuperscript{160} In 2005 the Kazakh Government spent $7bn on energy subsidies, with $3.5bn spent on natural gas subsidies alone (Auty, 2008, p.4).
(unsuccessful) efforts to deepen the ECT in this area by the EU and USA, states retain the right to control access to their resources and the terms of such access. Indeed, in terms of non-discrimination in market access, the ECT asks that producing states conduct licensing processes in a clear and transparent way without discriminatory practices, with provisions based on the EU Hydrocarbons Licensing Directive (94/22/EC). Producer states are not however compelled to follow these stipulations but rather, as Konoplyanik and Wälde note (2006, p.534), the Charter is intended to provide a “standard of objective, transparent and non-discriminatory access”. In reality, in Kazakhstan for example, decisions to let foreign companies invest in major oil and gas fields are controlled by the Presidential Administration and based on political considerations. Kazakh tendering processes can be closed and opaque rather than open, and transparent licensing of oil fields in not mandatory by law (unlike in the EU) (Gentech International, 2008).

So as to manage the influence of Chinese companies in the hydrocarbon sector, the Kazakh President imposed a moratorium on new oil and gas investment between 2007 and early 2013 (Revenue Watch Institute, 2013, p.1). The sheer scale of Chinese investment in Kazakhstan does raise issues regarding open licensing competitions and the extent to which they create a level playing field. Indeed, despite the EU’s promotion of open competition in the Caspian, one EU official expressed a concern that if Kazakhstan was to conduct entirely open competitions for hydrocarbon licenses, then Chinese companies may win most of the contracts. With generous state backing, cheap loans and lower commercial pressures (as well as opportunities for corruption), Chinese companies could potentially outbid private actors who did not receive state-backing. Such a situation would be bad from an EU security of supply point of view and more broadly a set-back for competition generally. Indeed in this sense, competition could lead to a monopolisation. This risk was backed up by one Kazak official who feared the consequences of open

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161 Interview Former Kazakh Government Official [32], Astana, Summer 2012
162 Interview EU official [7], Brussels, Summer 2011
competitions, arguing that the risk of corruption in Kazakhstan means that those companies that were able to afford and get away with paying the biggest bribes would may be likely to win contracts, rather than those with the best bid\textsuperscript{163}. US officials noted how in 2009 (unlike all the major Western companies), no Chinese companies operating in Kazakhstan had signed the EITI memorandum of understanding that would increase transparency of their payments to government officials (US Department of State, 2009c). Market access issues vary as a priority across the region however. Kazakhstan and Azerbaijan permit the (controlled) participation of the majority of European majors in their territory. Rather it is Turkmenistan, where foreign involvement is heavily curtailed, that provides both the greatest challenge and opportunity in terms of market access for exploration and production for the European commercial sector\textsuperscript{164}. Engagement with Turkmenistan is particularly exciting from an EU point of view (especially if the European Commission and EEAS are able to facilitate the construction of a trans-Caspian pipeline\textsuperscript{165}) as the country offers the opportunity for source, route and counterparty diversification.

As noted above, WTO is perceived as a solution to a number of market problems in energy deriving from state-proprietorialism. This is because WTO membership should ensure commitment on a broad range of liberal market-led competitive principles, such as reduced export duties, reduced restrictions in terms of local content, most favoured nation non-discrimination, certain curtailments on state involvement, subsidies and export restrictions - all of which would serve to create a more level playing field for European commercial actors. Crucially as well, the WTO has strong dispute and enforcement mechanisms that the EU can take in instances when states breach WTO rules. Indeed, the EU has recently initiated WTO dispute proceeding against new WTO member Russia regarding Russian import restrictions on cars from Europe (EC, 2013b).

\textsuperscript{163} Interview Former Kazakh Government Official \cite{32}, Astana, Summer 2012
\textsuperscript{164} Interview British Government Official \cite{30}, Astana, Summer 2012
\textsuperscript{165} The prospects for this pipeline have been hindered however by the recent decisions not to award Shah Deniz gas to Nabucco (see chapter one).
Safety, environmental and technical regulatory harmonisation

The export of regulatory convergence in terms of safety, environmental and technical standards is a core EU preference in external energy governance. While the Energy Charter organises best practice information sharing and dialogue on energy efficiency under the PEEREA (Protocol on Energy Efficiency and Related Environmental Aspects) programme (Constantinescu, Janssen & Nielsen, 2005), the Baku Initiative is the main framework for the promotion of EU safety, environmental and technical standards norms in the Caspian (EC, 2006a, p.4). Key areas relate to minimising the deterioration of energy networks (so as to reduce the risk of supply disruptions), ensuring sustainable tariff setting practices, developing legal and financial frameworks for the development of renewable energy sources and meeting European environmental regulations (EC, 2006a, p.5-8).

In general, the EU supports regulatory convergence in these areas for security of supply, environmental and competition reasons. Technical harmonisation on safety standards can lead to increased security of supply by reducing the risk of pipeline explosions or industrial disasters. Harmonisation in the areas of energy efficiency both further the EU’s efforts to reduce climate change emissions and help Caspian states to reduce their internal demand ensuring that more oil and gas is available for export. Finally, harmonisation also has an impact on competition and the creation of a “level playing field” (relating to SEF: protection against commercial disadvantage and SEF: contributing to collective autonomy) as some states are able to undercut EU producers by adhering to lower standards. Encouraging the use of EU standards also carries a benefit for those (predominantly European) companies that are already used to operating under these conditions. Producing countries have incentives to cooperate here however as European safety standards are amongst the most advanced in the world. Producing countries have to deal
with the aftermath of any potential environmental disaster and thus have a reason to cooperate with the EU on increasing their domestic standards to avoid these risks.

**Revenue transparency and country/project level reporting**

The Central Asia Strategy calls for increased transparency in the governance of the energy sector (EU, 2009, p.23). As is the case with competition, transparency can have multiple meanings. The EITI, (as discussed above) promotes transparency in the sense of accountability, good governance and anti-corruption in regard to government revenues and business practices. Likewise, recently, the EU agreed amendments to the EU Accounting and Transparency Directives that cover financial reporting in the EU and that now compel natural resource companies listed on EU stock exchanges (including, of course, those which are active in the Caspian) to increase the disclosure of payments to resource-rich states, increasing the scrutiny of company payments. Transparency is however also mentioned in both the ECT and the Astana Road Map. In these cases, transparency is however related more to market price transparency for the purposes of encouraging economic competition and better understanding of supply and demand levels, rather than good governance and the mitigation of corruption (Axelrod, 1994, p.501).

The form of transparency required by the EITI was traditionally ‘country-level reporting’ where companies and states had to account for the totality of the payments made and received in a given year. This allows public scrutiny of government revenues derived from the oil and gas sector and provides civil society groups with some of the information needed to hold governments to account. However, the new EU Accounting and Transparency Directives, like the Dodd-Frank Act in the United States, go further (in terms of companies at least) requiring ‘project-level reporting’. This presents the opportunity for greater levels of scrutiny of company payments by requiring that companies report payments for each project (over 100,000 Euro) they are involved in, rather than the
overall sum for the country (Ruby, 2012). At the May 2013 EITI Global Conference in Sydney, the EITI decided to adopt an updated standard in transparency that includes project-by-project reporting, increased scrutiny of national mining companies and more scrutiny of beneficial ownership (Moberg, 2013). Doing so will increase revenue transparency in signatory states as breaking down the payments received by governments to individual project-level makes it easier to monitor exactly what monies have been received, from whom and when. However, as will be discussed further in the next section, the shift to project-level reporting faced some resistance from members of the EITI Board (predominantly those from the commercial sector) because of disagreement over the definition of a ‘project’, fears of prosecution in states where there are rules prohibiting the reporting of payments and fears of competition with companies that do not have to meet these more stringent requirements, such as Chinese companies (Westenberg, 2012). Furthermore, as one EU official noted, these transparency requirements are still in a sense limited in that they do not shed light on what happens to money once it has been handed to governments\textsuperscript{166}.

**Multilateralism/regionalism**

The EU's energy policy in the Caspian region contains both regionalist and multilateral elements. To a certain extent regionalism and multilateralism both underpin and are inherent to a number of the other norms discussed above - in particular competition and standards harmonisation. The encouragement of market-governance practices through the ECT and WTO implies a degree of multilateralism in energy and relies on such multilateralism for success. Likewise, the Central Asia Strategy, presenting an approach that is regionalist, highlights the EU desire to “promote an integrated Central Asian energy market” and support “technological cooperation between the EU and the Central Asian states in the energy sector” (EU, 2009, p.23). More generally the Central Asia Strategy

\textsuperscript{166} Interview EU Official [2], Brussels, Summer 2011
(2009, p.23) talks of how “the EU can offer experience of *regional integration* leading to political stability and prosperity” [emphasis added]. Likewise, the Baku Initiative has as one of its first major objectives, the long-term desire to establish a regional integrated energy market in the Caspian/Black Sea regions and a short-term desire (as noted above) to encourage energy market convergence.

Importantly, these regional and multilateral perspectives should not be seen merely as attempts to facilitate cooperation. Indeed, they are also a defensive means of mitigating the impact of other forms of energy cooperation that the EU does not favour - such as energy cooperation within Russian or Chinese regional projects such as Eurasian Economic Union or the Shanghai Cooperation Organisation. While they seek to increase cooperation between Caspian states and Europe, EU regional projects generally exclude Russia and China and the multilateral frameworks that the EU promotes in the region (such as the Energy Charter Treaty and WTO) seek to ensure that any other agreements entered into by Caspian states with Russia or China do not contravene the EU’s fundamental normative preferences in energy (as in other sectors).

**EU CASPIAN ENERGY GOVERNANCE NORMS: PATTERNS OF EUROPEAN CONVERGENCE**

This section examines the perspectives of member states and energy companies on the EU’s energy governance norms in the Caspian. It does so by identifying patterns of convergence and divergence around the five norms of the EU’s external oil and gas governance in the Caspian discussed above. As was the case in the previous chapter, all of the companies below are involved in projects located in or directly reliant on supply from the Caspian.

This section identifies a mixed pattern of European actor preference on these norms. It will be argued that, in line with the risk perceptions observed in the previous chapter, the
greatest degree of commonality is seen on the norms and principles associated with investment protection and market facilitation. Other areas, however, present a more mixed picture. While broad agreement is seen on all of the international norms that find expression in the EITI, WTO and the Energy Charter (inter alia market access, investment, non-discrimination, country level transparency), there are, however, degrees of divergence regarding the specific EU norms (EU regulatory convergence, internal market-based competition) pursued predominantly via the Baku Initiative and other EU structures. As the section below demonstrates, member states and companies present a broad (albeit not perfect) agreement on the norms of EU upstream governance and the state economic functions it entails. Moreover, and significantly, member states and companies also largely agree on the EU role in promoting these norms and rules through the governance complex highlighted above.

**Investment protection and promotion**

Member states are quick to highlight the importance attached to investment protection. The Dutch Government notes that the EU should be “able to play a more prominent role [...] by concluding investment agreements with oil and gas-producing nations and regions” (The Dutch Ministry of the Economy, 2006, p.5). One UK Government Official argued that responding to political risks to UK business investments reflected one of the major tasks of their work in the Caspian region167. The Polish response to the 2011 consultation noted the EU’s significance in facilitating EU investment in third party markets and its contribution to “increased security and transparency with these countries” (Polish Ministry of the Economy, 2011, p.3)168. A number of member states place particular stress on the Energy Charter and WTO. The French response to the 2011 consultation on external energy notes that the Energy Community Treaty and the Energy Charter Treaty

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168 The Czech Government (2011, p.1) notes that the EU should continue to promote a “stable” and “transparent legal environment” in producing countries (including those in the Caspian).
constitute fundamental elements of the “harmonised judicial space around the EU particularly in the domains of the security of networks and transportation and the protection of investments” (French Permanent Representation EU, 2011, p.1). Poland likewise, speaks of the virtues of the Energy Charter, and its role in facilitating investment, and the WTO in term of dispute settlement (Polish Ministry of the Economy, 2011, p.3).

All energy companies and both industry associations that responded to the EU 2011 public consultation on external energy stress the importance of investment protection and, importantly for this study, their desire for the EU to be active in this policy area (Eni, 2011, p.1; Eurogas, 2011, p.2; RWE, 2011, p.1; Statoil, 2011, p.5; Shell, 2011, p.5; OMV, 2011, p.1; OGP, 2011, p.4). Likewise, several companies feel that investment protection and the promotion of a stable investment climate is a priority over other areas (such as regulatory convergence). Eni (2011, p.1) for example, captures this position when it argues that “in the short and medium term, promoting a sound framework for investment protection is more practicable and urgent than achieving full implementation of the whole energy acquis in non-EU countries”. As noted above, energy companies are fundamentally concerned with ensuring respect for their property rights and that legal structures are not imposed in a discriminatory manner\(^{169}\). Eni stresses that the primary aim of any EU external energy action should be to apply “all political tools at EU level to guarantee international investment protection” (Eni, 2011, p.1). Likewise Eni argues that the EU should cooperate on investment protection with other major consuming countries (such as the US) (Eni, 2011, p.4). The International Association of Oil and Gas Producers (OGP) argues "investment protection and sanctity of contracts [are] the most important points to achieve" (OGP, 2011, p.4). RWE and Eurogas (the latter representing most European gas companies) note the importance of the WTO and Energy Charter in this regard (RWE, 2011, p.2; Eurogas, 2011, p.2). EU and company officials interviewed note regular meetings, both in Brussels and Caspian states, between the EU and companies to discuss

\(^{169}\) Interview energy company official [33], Autumn 2012
issues such as investment problems, local content requirements and other related concerns.170

**Sustainable competition (levelling the playing field)**

Member state responses to the public consultation generally support EU efforts to establish a ‘level playing field’ with regard to third party countries through the reduction of barriers to trade and the convergence of standards to facilitate competition (see for example French Permanent Representation, 2011; The Polish Ministry of the Economy, 2011). The Dutch Government (Government of the Netherlands, 2011, p.1) notes that the EU should engage with third party countries with the objective of advancing “the creation of a level playing field for market parties”. The WTO and (EU) bilateral agreements are highlighted as tools that should be aimed at eliminating trade and investment barriers (Polish Ministry of the Economy, 2011, p.10). Poland also notes that efforts need to be made by the EU to ensure a level playing field with regard to interference by producers in the energy raw materials market, including *inter alia* the removal of subsidies, the application of double energy prices as well as export duties which increase the costs of energy transported to the EU (Polish Ministry of the Economy, 2011, p.4). The Polish response to the 2011 consultation on external energy policy also argues that the EU institutions should facilitate the identification of and devise solutions for the removal of barriers to energy trade, investment and energy infrastructures (Polish Ministry of the Economy, 2011, p.12).

Similarly, responses from the French government call for greater incorporation of energy issues into existing agreements, including free trade agreements (French Permanent Representation EU, 2011, p.1; p.3) The French Government notes how the EU has an evident interest to export its own legislation in energy matters and that doing so is

170 *Ibid; Interview EU official [14], Brussels, Summer 2012; Interview EU official [27], Brussels, Summer 2012 - The EU’s role in political support for companies is discussed further in chapters six and seven.*
important in terms of “guaranteeing access to markets and equal production conditions between the EU and neighbourhood countries” (French Permanent Representation, 2011, p.1).

Generally speaking, as identified by Youngs (2009, p.157), companies express support for free markets and increased competition and press for the EU to support increased market access in the external energy sector. ExxonMobil, Shell and OGP highlight the importance of reciprocity and equal market opening so as to maximise access to upstream resources (ExxonMobil, 2011, p.1; Royal Dutch Shell, 2011, p.5; OGP, 2011, p.3). Shell argues that gaining access to resources is a “major challenge” and suggests the need for EU political support to accompany broader competition and investment regulatory frameworks and calls on the EU to develop “good [political] relationships with all countries that can contribute to the security and diversity of supply” (Royal Dutch Shell, 2011, p.5). Several companies highlight the importance of maintaining a level playing field between international and producer companies (OMV, 2011, p.1; Eni, 2011, p.1). OGP argues that “international competition and open markets create a broad supply base and bring about energy security” (OGP, 2011, p.4). Statoil welcomes EU efforts to increase “fair access rules in neighbouring energy markets as this will help create a level playing field and promote cost-effective energy solutions” (Statoil, 2011, p.1). Linking market access (a company commercial objective) to broader European economic prosperity, Eurogas (2011, p.1) argue that “supporting the EU’s economic competitiveness by means of supporting [company] access to reliable and cost-competitive global energy supplies should be a central mission of [EU] public policy”.

However, it should be noted that there appears to be some disagreement over the promotion of competition on the basis of internal EU energy rules (an objective of the

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171 Statoil welcomes EU efforts to increase transparency and fair access rules in neighbouring energy markets as this will help create a “level playing field and promote cost-effective energy solutions” (Statoil, 2011, p.1).
Baku Initiative). Smaller European companies tend to promote close alignment of energy systems in third party states with EU rules. Support for these measures may relate in part to smaller companies’ desires to constrain and compete on a more equal footing with larger international majors (Youngs, 2009, p.156). EDF notes, for example, that “the benefits of free trade [in energy] are widely acknowledged” and that they “would be keen for other countries to adopt the [EU] internal market rules and the general regulatory approach” (2011, p.1). OMV (2011, p.1) argues that the EU’s internal market principles “need to be promoted in neighbouring countries [emphasis in original].”

However international majors and the associations (that include international majors) tend to be more cautious, expressing less support for the promotion of competition on the basis of EU rules. Generally speaking, larger companies welcome increased support in terms of access to resources but, as Youngs (2009, p. 157) has noted, larger firms are often quite content with their relations with producer states and fear being subject to new regulations or competition. Shell (Royal Dutch Shell, 2011, p.1) for example cautions that a “degree of realism” is needed with regard to the potential for internal market convergence with external partners. Eurogas (2011, p.1) suggest that while the EU approach could be a “model” for neighbouring countries, “national environments and specificities need to be taken into account”. OGP172 (2011, p.2) notes that the EU should pay close attention to “differences of circumstances and political opinion in third countries”. For some companies, access to resources is thought to be better obtained through the promotion of international regimes such as the WTO and the Energy Charter Treaty (Statoil, 2011, p.1) as well as through offering reciprocal downstream access in the EU for access upstream (Royal Dutch Shell, 2011, p.4; OGP, 2011, p.4). Likewise, a number of others (Eurogas, 2011, p.2; Eni, 2011, p.1) suggest that the protection of investments and the promotion of

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172 The commonalities and crossover between OGP and Exxon Mobil’s contributions to the EU public consultation is striking. At several stages throughout both contributions, whole paragraphs are identical.
existing commitments (WTO/Energy Charter) should take clear priority over the full implementation of the energy *acquis* in non-EU countries.

**Safety, environmental and technical regulatory harmonisation**

Broader regulatory issues, while not deliberately related to increasing competition, are nonetheless closely linked to questions of commercial advantage and competitiveness. Regulatory standards in terms of environmental conditions, safety and technical standards can offer both opportunities and drawbacks for certain companies. For companies successfully engaging without these measures, their imposition can be a market hindrance, incurring additional costs. However, for those already used to operating under them, they can use them to their commercial advantage and provide opportunities vis-à-vis others. As Luttwak has noted, states and “blocs of states” (such as the EU) use regulation as a means of gaining commercial advantage over others (1990, p.126). Youngs highlights, for example, how some European companies lobbied Brussels to promote EU regulatory structures in sub-Saharan Africa to give European companies a competitive advantage over US firms (2009, p.168). Regulatory standards can also pose a barrier to less technically advanced companies who may be able to operate more cheaply but who cannot meet high European standards. They can therefore, under certain conditions, present a source of technical advantage for European/international companies. EU officials with responsibility for energy policy in the Caspian noted that some companies seek the adoption of higher technical standards by producer and transit countries as they are able to sell this technology necessary to meet these standards to upstream states.Officials also note that there is a business case for standards relating to energy efficiency given that energy extraction is an energy intensive business and these costs are born by companies.174

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173 Interview EU official [17], Brussels, Summer 2012
174 *Ibid*
Member states generally note their desire to see increased regulatory convergence with third party countries and the creation of a common regulatory area in energy. While noting that a differentiated approach may be necessary, the Latvian Government (2011, p.1) suggested that it was "crucial to promote regulatory convergence especially regarding environmental and safety standards". The Dutch Government (Government of the Netherlands, 2011, p.1) noted that the Netherlands is "strongly in favour" of promoting regulatory convergence on EU lines. The most commonly cited tool for this was the Energy Community Treaty, including its extension to the states of the Caucasus (including Azerbaijan)\(^{175}\) (Polish Ministry of the Economy, 2011, p.2). As noted in the previous chapter, the Baku Initiative is the main source of regulatory convergence across the Caspian. The French government argues for the extension of EU legislation to the EU's immediate neighbours, "notably that concerning regulation of markets and environmental and security norms". Similarly, the Lithuanian Government, for example, notes that lower safety and regulatory standards in third party countries means that EU companies are sometimes uncompetitive against their non-European counterparts (Government of Lithuania, 2011, p.3). The UK Government (2006a, p.29) stresses support for the progressive integration of the energy markets in the Caspian region into the EU market and UK support for the Baku Initiative that entails promotion for regulatory safety and environmental harmonisation.

Again, like competition, regulatory convergence appears to be an area of EU external energy governance where one witnesses some discord both between companies and between companies and the EU. While the majority support the regulatory convergence of EU neighbours with EU standards, international majors Exxon and Shell both cautioned against the export of regulatory norms noting that such actions should not take place until the regulatory landscape was settled inside the EU (Royal Dutch Shell, 2011, p.1; ExxonMobil, 2011, p.1). It is likely that they fear that encouraging convergence too early

\(^{175}\) However, notably not to the states on the other side of the Caspian.
might lead to a continuously changing external regulatory environment. Better, in this instance, to wait until the EU internal context is fixed and then pursue convergence with that. Likewise, OGP (2011, p.2) advises the EU to respect differences of opinion when promoting the energy *acquis* in third countries. Imposing EU standards abroad could entail higher operating costs for companies. In cases where they face little competition from other companies who might struggle to operate under more stringent conditions, higher regulatory costs (beyond ensuring that environmental disasters are averted) offer fewer immediate incentives for companies (see below).

The majority of commercial respondents to EU public consultations on external energy policy however (including Eurogas that represents all companies), noted that, while it should demonstrate a degree of flexibility in respect to the specific needs of each neighbouring country, the EU should pursue a policy of regulatory convergence with states in the EU's periphery (Eni, 2011, p.1; RWE, 2011, p.1; Eurogas, 2011, p.1; EDF, 2011, p.3; Statoil, 2011, p.1). Arguing the business case for convergence, OMV posits that the adoption of environmental and safety standards in energy by EU neighbouring countries “will contribute to a stable and predictable business climate” (2011, p.1). Likewise Eni notes that “extending the main internal market, environmental and safety principles to neighbouring countries would add certainty to the investment climate and level the playing field and certainly benefit energy companies” (Eni, 2011, p.1). Partly relieving the tension between the different company positions highlighted above, one energy official from an international major noted that support for the promotion of regulatory convergence depended on the time frame involved. In general, they stated, it was better to have regulatory harmonisation, but noted that it was never good to have this imposed on them. They noted that while it could sometimes be a competitive advantage not to have to
respond to EU harmonisation, if one was committed to a market long-term, it was generally preferable to have higher EU standards in place\textsuperscript{176}.

\textit{Revenue transparency}

Revenue transparency, on the basis of the \textit{country-level reporting norms} of the previous EITI standards, is an area of strong convergence. However, transparency principles based on \textit{project-level} payment reporting do present an area of contention, especially for energy companies. A large number of European countries (UK, France, Germany, The Netherlands, Spain, Belgium, Denmark, Finland, Italy, and Sweden) are active members and supporters of the EITI “providing political, technical and financial support” (EITI Secretariat, 2013a, p.4). EU officials note how regular EITI coordination meetings take place between EU member states at the EU delegation in Kazakhstan\textsuperscript{177}. The UK Government (2006a, p.29) notes how it “supports Commission work in the region to promote good governance [such as through the EITI], in particular in the energy sector”.

Companies who are, unlike states, directly affected by transparency requirements do nonetheless offer some support for greater transparency in the extractive sector. Energy companies generally support the EITI and participate in its programmes. European companies BP, BG Group, DONG Energy, Eni, GDF Suez, Repsol, RWE, Shell, Statoil and Total and US companies Chevron, Conoco Phillips and Exxon all sit on the EITI’s Multi-stakeholder Coalition and abide by its existing protocols (EITI Secretariat, n.d. [b]). A number of companies sit on the EITI’s Board (BP, Total, Statoil, Shell, Exxon, Chevron) (EITI Secretariat, 2013b, p.2). Companies were also involved in consultation for and agreed to a new EITI standard at the EITI Global Conference in Sydney in May 2013 (Moberg, 2013). OGP, which represents virtually all European upstream operating

\begin{footnotesize}
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\item \textsuperscript{176} Interview energy company official [34], Brussels, Autumn 2011.
\item \textsuperscript{177} Interview EU official [31], Astana, Summer 2012.
\end{itemize}
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companies\textsuperscript{178}, argues that companies should publish payments to governments and that this practice provides the information necessary for citizens to hold governments to account (OGP, 2012, p.1).

While companies support transparency and the EITI, the nature of the transparency (country or project-level) has proven more contentious. OGP assert that \textit{country-level payment reporting} provides an "accurate picture of the global distribution of an upstream oil and gas company's direct financial contribution to the public sector" (2012, p.1). The EITI is the preference for companies in terms of promoting this standard of transparency\textsuperscript{179}. Companies however have been much more cautious around \textit{project-level} reporting. Companies have noted a number of perceived problems with this kind of transparency. They caution that there is both no commonly agreed definition of the term 'project', that payment at the project-level varies considerably over time and across countries and that disclosure of payments based on this principle could thus lead to misleading data (OGP, 2012, p.2). More fundamentally, they argue that project-level disclosure could contravene local laws that forbid the publishing of government revenue data (putting companies and individuals at risk) and could thus hinder European companies subject to such rules against other national and international companies that are not. This, they argue, would represent "an unwelcome distortion of competition against European companies" that "could undermine the ability of Europe’s oil and gas sector to retain existing contracts and to win new business, giving an advantage to non EU-based competitors" (OGP, 2012, p.2). Furthermore OGP note that European/Western international companies are responsible for a \textit{minority} of global production and that transparency measures that apply solely to them will be unlikely to have a broader demonstrable effect (OGP, 2012, p.2). One energy company official cautioned that

\textsuperscript{178} See the OGP website - http://www.ogp.org.uk/about-ogp/membership/upstream-companies/ - for details. Furthermore, as the statement is unequivocal and there appears to be no contradiction in its message, one can deduce a broadly homogenous position amongst companies represented by OGP.

\textsuperscript{179} Interview energy company official [33], Brussels, Autumn 2012
disclosure would also force companies to reveal their cost structures and internal workings to competitors. They argued that the EU should be more specifically engaged in pushing for good resource governance. Companies, they said, were often in the firing line but it was the European Union, they felt, that needed to do more in terms of reform and in terms of giving producer countries better examples of how to manage political power.

Nevertheless, as mentioned above, Western energy companies did agree to the new EITI standard at the Global Conference in May 2013 that now involves project-level reporting. It appears that the EITI standard may well have benefitted from the adoption of the new Accounting and Transparency Directives and Dodd-Frank Act in the US (discussed above) that also entail project-level reporting (the major difference being that the EITI also applies to producer countries). Following the adopting of these requirements, companies had little reason to withhold agreement on the same requirements in the EITI. Overall then, despite some company reservations, we can see a strong (if sometimes reluctant) alignment between the transparency policies of member states, companies and the EU institutions around the EITI – an organisation strongly supported by the EU in the Caspian region.

**Regionalism/multilateralism**

EU member states continue to support the regional elements of the EU’s strategy in Central Asia (Council of the European Union, 2012, p.1). Council Conclusions (2012, p.2) on Central Asia from June 2012 note how the EU should continue to promote “broader regional co-operation for Caspian basin [energy] development and further strengthen the participation of Central Asian partners in the enhanced INOGATE (Baku Initiative)

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180 Ibid
181 Ibid - Some member states have also expressed some reservations with regard to new transparency laws. The German Government, for example, has shown some concern that new rules might undermine German mineral extraction companies (Hayman, 2012).
programme”. German Government officials argue that encouraging regionalism underlines the approach taken by Germany in Central Asia (under whose presidency the Central Asia Strategy was launched in 2007). By working more closely together, German officials assert that the Central Asian and Caspian states will be able to both learn from the region-building experience of the EU and be more capable of standing up to their larger neighbours. However, as noted in the previous chapter, a number of the core pillars of EU energy governance in the Caspian are multilateral and not specifically regional in nature. The EITI, WTO and Energy Charter are all broad multilateral forums that as described above, continue to be strongly supported by member states (Council of the European Union, 2012, p.2-3).

Companies in general do not explicitly profess a particular preference for any type of governance framework, although the desire noted by some for differentiated interaction lends itself towards more bilateral forms of engagement. As discussed above, companies recommend taking third party positions into account which entails bilateral arrangements rather than regional or multilateral adherence to a complete set of rules. As noted previously, companies do expressly support several frameworks that are multilateral in nature (in particular the EITI, WTO, and Energy Charter). One energy company official noted that companies prefer energy arrangements to be embedded in broader agreements such as the EU’s deep and comprehensive free trade agreements (DCFTAs) or the WTO, as these give European/international actors greater bargaining power since they can leverage across different issues and gain upstream concessions by giving access to EU markets etc. However again, there is little particular stated preference for multilateralism or bilateralism but rather a concern with the content of the agreement (and its market enabling or regulatory functions). As noted in the sections above on competition, regulatory convergence and investment, it is the outcome of the governance

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182 Interview German Government Official [22], Brussels, Summer 2011
183 Interview energy company official [34], Brussels, Autumn 2012
(does it improve the investment climate, does it lower operating costs or provide a more competitive position etc.) that matters to companies, rather than the form of engagement. However, as noted above, companies do tend nevertheless to demonstrate mixed perspectives on the more regionally EU-orientated integration frameworks and policy areas such as regulatory standards harmonisation and market integration under EU rules (Eurogas, 2011, p.2; Eni, 2011, p.1). Again however, this is likely to be related to the impact of the rules and the risk of higher regulatory burdens that these entail rather than the type of cooperation (regional/multilateral) they involve.

**CONCLUSION: A LIBERAL SHAPING OF THE CASPIAN MILIEU**

This chapter has outlined the EU's tactical milieu-shaping energy governance objectives in the Caspian upstream. The chapter had two broad objectives. Firstly, it sought to outline how the EU's complex of energy governance structures promotes certain liberal risk-mitigating state economic functions in the Caspian. Secondly, the chapter described the perspectives of member states and energy companies on the EU's upstream governance objectives.

To set up analysis of the EU's upstream governance the chapter first presented Mommer's (2000) distinction between liberal and proprietorial models of energy governance. This section outlined liberal and proprietorial models in terms of their conception of state economic functions, the role of the state, investment, competition, intended beneficiaries and political risk mitigation/creation. The rest of the chapter sought to demonstrate how the EU's energy governance complex in the Caspian corresponds broadly to the liberal model of governance and how it in turn contributes to the EU's broader strategic role in market facilitation and political risk mitigation.

The second section analysed the institutional dimension of the governance structures promoted by the EU in the Caspian upstream and drew attention to EU's 'governance
complex’ of macro institutional structures (such as the Central Asia Strategy) and meso-sectoral level structures in energy (and wider meso structures in trade that apply to energy). It was noted that three of the four major meso structures promoted by the EU in terms of energy governance in the Caspian, such as the Energy Charter and the EITI, are actually international in character rather than EU-administered institutions, although they do still approximate to European preferences and desired state economic functions (albeit perhaps to a lesser extent that EU officials would like).

The third part of the chapter analysed the governance norms and state economic functions that these institutional structures support in the region. It was argued that the EU promotes five overarching norms in the Caspian upstream; investment protection/promotion, sustainable competition, safety/technical and environmental standard regulatory harmonisation, revenue transparency and multilateralism/regionalism. Analysing these norms allows detailed examination of the milieu-shaping character of EU governance and outlines more clearly how the EU’s policy in the region helps support the broader objective of protecting and facilitating commercial actors in the region. Indeed overall, the second and third sections sought to demonstrate how the EU’s governance structures in the Caspian seek to obtain adherence to a number of state economic functions, most notably: 1) protection of property rights; 2) protection against commercial disadvantage; and 3) the promotion of autonomy for commercial actors.

The final section considered member state and energy company perceptions of the norms promoted by the EU in the Caspian region. In line with the discussion of upstream risk in the previous chapter, the greatest area of convergence surrounded investment protection and the creation of a level playing field for businesses. However, while there is general agreement on the EU’s upstream governance norms, companies in particular have historically expressed doubts about the level and speed of regulatory harmonisation and
project-level transparency reporting. Most of this divergence on the part of companies can be explained, as suggested in chapter one (Levy & Prakash 2003, p.133; Youngs, 2009, p.155), by company desires to encourage EU action in areas that increase their business prospects but to reduce it in areas that might create higher costs or increase the competition they face. Nonetheless, a picture emerges from this chapter of a relatively cohesive EU milieu-shaping governance complex in the Caspian supported by EU institutions, MS and (sometimes recalcitrant) energy companies. However, as the next chapter will demonstrate, it is not enough to just promote energy governance institutions in the Caspian. The EU’s milieu-shaping efforts require the support of EU-level energy diplomacy.
CHAPTER SIX

EUROPEAN ENERGY DIPLOMACY AND POLITICAL SUPPORT

This chapter examines the role of EU energy diplomacy in reducing and responding to risk in the Caspian milieu and company and member state perspectives on this upstream energy diplomatic practice. In addressing the diplomatic dimension of the EU’s milieu-shaping activities, this chapter has a number of core objectives. Firstly, it seeks to demonstrate how the EU’s reliance on energy companies creates a strong link between the EU’s energy diplomacy and commercial diplomacy (especially the ‘problem-solving’ variant of commercial diplomacy). Secondly, the chapter seeks to shed some light on the tensions caused by this overlap, both in terms of the inter-institutional question of who is responsible for EU energy diplomacy and in terms of the tensions between the particular commercial interests of companies and the EU’s wider energy policy. Third, the chapter seeks to outline the different aspects of the EU’s energy diplomacy in the Caspian, highlighting the different forums and modes of EU energy diplomacy towards Caspian states. Finally, given member states’ general hesitance to afford the EU a strong role in external energy policy (as described in the introduction), this chapter seeks to gauge member state and energy company support for a strong EU diplomacy role in upstream foreign energy policy. This section finds strong support from member states and companies for both an active EU upstream diplomatic role and for a high level of company-EU interaction and information-sharing in the process of formulating and conducting energy diplomacy. A number of explanations are offered for this support focusing on the changing power dynamics in the Caspian/Central Asia, the more politically ‘neutral’
perception of the EU institutions (relative to member states) and the risk mitigation strategies of companies themselves. This support for an EU energy diplomacy role represents a gradual, but ongoing supranationalisation of the commercial diplomacy and political support function that companies have traditionally expected from national governments and bucks the generally-witnessed trend of disunity and discord in EU foreign energy policy.

The chapter is organised into four sections. The first outlines the overlap between energy diplomacy and commercial diplomacy and the role of diplomacy in the reduction of political risk. The second section outlines the EU's energy diplomatic activity towards the Caspian upstream and highlights some of the overlap between EEAS and EU Commission roles in Caspian energy diplomacy. The third section examines intra-European convergence on a growing EU role in (commercial) energy diplomacy in the Caspian. This section examines the degree of member state and company support for EU-level commercial energy diplomacy and suggests how the positive respective positions of both national capitals and energy firms on upstream diplomacy can be explained. The fourth section discusses some of the tensions between company and EU perspectives on the respective roles of companies and the EU, noting how companies seek to involve the EU in their particular disputes, while being keen to preserve their business autonomy. However, the EU Commission and EEAS for their part, seek to respond to broad issues that affect the general interest of the upstream-operating energy industry as a whole, rather than be seen as responding to the specific interests of any one energy company.

**RISK MITIGATION AND COMMERCIAL ENERGY DIPLOMACY IN THE CASPIAN**

While the phrase “energy diplomacy” is frequently used in the literature on energy politics (Hazakis & Proedrou, 2012; Goldthau, 2010, p.28), discussion of EU diplomacy in energy is far less common – especially in terms of the catalytic diplomacy towards third party countries. The expression ‘energy diplomacy’ is often (erroneously) used interchangeably
with the terms ‘foreign energy policy’ or, in the EU context, the ‘external dimension of energy policy’ (see for example Saryusz-Wolski [2011, p.7] & Hazakis and Proedrou [2012]). However, the terms ‘diplomacy’ and ‘foreign policy’ are not synonymous. Like the promotion of governance, the practice of diplomacy in general and energy diplomacy in particular, is a tool of foreign policy (Hocking, 2004a, p.92). Indeed, Hocking (2004a, p.92) argues that ‘foreign policy’ constitutes “the substance of an actor’s international policy”, whereas ‘diplomacy’ refers to “one of the instruments through which this can be effected” [emphasis added]. Likewise, Carta (2012, p.13) refers to EU diplomacy as a “means to an end” and, echoing Wight (1979), states that European diplomacy is “defined as an instrument of foreign policy, an instrument of representation, a method whose main functions are ‘information, negotiation and communication’” [emphasis added]. The difference between foreign policy and diplomacy is important as the two are often confounded in discussions of European external relations (Hocking, 2004a, p.92). Indeed, Goldthau (2010, p.28) suggests, for example, that “it would seem appropriate to define [energy diplomacy] as the use of foreign policy to secure access to energy supplies abroad and to promote (mostly bilateral, that is, government to government) cooperation in the energy sector”. Yet, as Hocking argues (2004a, p.92-3) it is one things to suggest that the EU is developing a "foreign and security policy in terms of outputs and quite another to posit that this is accompanied by a distinctive style and mode of delivery”.

As was described in chapter four, the EU’s energy diplomacy has both a long-term proactive risk-mitigating function that seeks to offset risks before they happen and a short-term reactive focus that aims to minimise the impact of extant threats to the upstream operating energy industry. EU diplomacy has the potential to reduce risk in a number of senses. Firstly, like energy governance (which establishes a degree of certainty on others’ actions through the fixing of rules) energy diplomacy has the potential to establish a degree of certainty through the sharing of information. This by no means eliminates uncertainty as interlocutors may lie and one may be deceived. However
diplomacy and dialogue increase the potential for the sharing of information on interests and future behaviour and thus can reduce the uncertainty associated with others’ actions. Secondly, and perhaps most importantly, diplomacy presents the opportunity for negotiation both to create situations that avoid risk and to resolve it when it cannot be averted. This may involve consensual dialogue to reach a cooperative solution or may involve the threat of sanction. In either case, there is the potential for the reduction of risk or the mitigation of extant threats.

The 2011 European Commission communication on external energy policy notes that to ensure the effective promotion of “EU and national energy interests beyond [the] EU’s borders” (EC, 2011a, p.18), it is in the EU’s interest to develop its strategic partnerships with energy suppliers (EC, 2011a, p.10). Indeed, the Commission (2011a, p.17) makes clear that EU relations with supplier countries are based on a number of different instruments including the promotion of strategic energy dialogues with suppliers – in other words, opportunities for energy diplomacy. Furthermore, in reinforcing the diplomatic dimension of EU external energy policy, the Commission notes the active role of the EEAS and the EU’s delegations (the EU’s foremost diplomatic institutions) in the promotion of EU foreign energy priorities (EC, 2011a, p.17).

**The overlap between energy diplomacy and commercial diplomacy**

EU reliance on energy companies for energy supply and the consequent link between the EU's energy security and commercial objectives means that the EU's commercial diplomacy is a core dimension of the EU's wider energy diplomacy. Commercial diplomacy refers to “a government service to the business community which aims at the development of socially beneficial business ventures” (Kostecki & Naray, 2007, p.1). These government services include networking on behalf of companies, providing (business) intelligence, support during negotiations and ‘problem-solving’ (Kostecki & Naray, 2007, p.7). ‘Problem-solving’ commercial diplomacy refers to the actions of public actors involved in,
*inter alia*, the protection of property rights, tax and regulatory issues and "assistance to national companies which have suffered losses and wish to obtain compensation as well as various forms of support provided as diplomatic protection" (Kostecki & Naray, 2007, p.10). As the Commission noted in 2010 (EC, 2010c, p.8) as part of the Common Commercial Policy, the EU in the *form of the Commission* (see below), is responsible for creating the conditions that allow European businesses to invest in third party countries and the protection of European investment interests in the post-investment stage within these countries. This includes enabling and protecting "all the operations that accompany that investment and make it possible in practice" (EC, 2010c, p.8).

As will be discussed below, one of the core functions of (commercial) energy diplomacy is to politically support the EU’s governance objectives (discussed in the previous chapter) and to ensure that broader political issues do not impinge on energy relations (and vice-versa). In this sense, the EU’s energy diplomacy serves the liberal function of presenting a buffer between the energy industry and the (risk-inducing) realm of politics – a distinction denied of course by the more proprietorialist producers. Indeed, as noted in chapter four, the embedding of energy cooperation in diplomatic arrangements reflects, at least in part, the challenges of establishing legally-based energy governance relations and highlights the political support that is sometimes needed so that these arrangements function effectively\(^\text{184}\). As will be discussed further below, energy diplomacy is sometimes a remedial policy tool available in the upstream when the EU’s broader risk mitigating objectives cannot be met through the export of governance or when governance frameworks fail. Given the post-investment nature of the EU’s ‘problem-solving diplomacy’ it tends to be conducted by EU officials working within the Caspian upstream countries involving the Trade, Energy and Political Officers who operate there, although they are often supported by officials from headquarters in Brussels. Commercial diplomacy is thus, especially in its reactive problem-solving form, an important component of the EU’s

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\(^{184}\) Interview EU Official [5], Brussels, Summer 2011
upstream capacity to pursue its strategic objective of managing political risk in foreign markets.

However, from an inter-institutional perspective, the overlap between energy diplomacy and commercial diplomacy creates a potential tension between the roles of the EEAS and the Commission. While the Commission is undoubtedly responsible for the commercial policy and investment issues, the EEAS is responsible for managing the political ramifications of EU energy relations and the impact of political relations on energy. Furthermore, the EEAS is responsible for the overall management of the political relations with partner countries and (most of) the formal macro-level political interaction between them (see next section). As discussed below however, this does not always cause tensions in practice. Firstly, this is because the people directly responsible for reacting to these commercial energy diplomacy issues often work in delegations where the EEAS/Commission/member state distinction is far less acute than in Brussels. Secondly, EU officials in different institutions and services in Brussels are generally able to overcome institutional differences – often on the basis of strong personal relations at the level of individual units/divisions and officers, many of whom have years of working together as colleagues in the Commission before DG External Relations was merged with parts of the Council Secretariat into the EEAS.

**PROACTIVE AND REACTIVE RISK REDUCTION: EU (ENERGY) DIPLOMATIC PRACTICES WITH CASPIAN STATES**

This section discusses the EU’s multiple opportunities for proactive and reactive risk-reducing diplomacy with Caspian states and provides an overview of roles played by different EU institutions (EEAS and Commission) in the provision of this diplomacy.

The EU has the opportunity to conduct energy diplomacy with its Caspian ‘partners’ in a number of different settings. Firstly, for example, EU officials meet with Caspian
counterparts at low-level technical INOGATE working group meetings held under the auspices of the Baku Initiative. These fora allow officials to meet, in a multilateral setting, most often in Brussels, to discuss 'best practice' in energy. Here the EU uses forms of soft pressure via so-called 'bench-marking' exercises that track the progress of various countries in line with the objectives of the Astana Road Map (discussed in the previous chapter) and the broader EU energy acquis. The results of bench-marking reports are made available to the Baku Initiative participants and successful instances of reform are presented to the broader working party. These reports and presentations highlight those countries that have made progress towards EU objectives on issues such as the investment climate and the establishment of independent energy market regulators (EC, 2011d). At the Working Group meeting in 2011 for example, Kazakhstan and Azerbaijan were rated as having 'basic' investment frameworks (meaning that a legislative framework favouring investment is not in place) and a 'developing' investment climate (meaning the investment climate is "under development") (EC, 2011d). Turkmenistan was rated as having both a 'basic' investment framework and investment climate (EC, 2011d). While there are no sanctions for not making progress, these sessions provide the EU with an opportunity to promote 'best practice' amongst partners from Eastern Europe and highlight to Central Asian states areas for further potential alignment with European norms. While EEAS officials attend these meetings, they are managed and coordinated largely by the European Commission (DG Energy and DG DEVCO).

While the Baku Initiative meetings are broadly technocratic in nature, the EU conducts political-level diplomatic interaction with Caspian states in bilateral Cooperation Committees and Cooperation Councils and (in the Central Asia case) EU-Central Asia Ministerial Meetings. Cooperation Committees and Councils are held annually at a more senior political level than Baku Initiative meetings. These meetings cover a multitude of cooperation issues contained within the PCAs and the Central Asia Strategy, including energy and energy-related issues such as development and trade. Cooperation Committees
involve deputy ministers (or above) from the Caspian states and are attended by both officials from the EEAS and the European Commission and chaired by the EEAS at Director or Head of Unit level. Cooperation Councils are more senior and more strategic in nature and tend to discuss topics of broader significance. They are also attended by both Commission and EEAS officials and chaired by the EEAS, usually by the High Representative or an EU foreign minister. During the stage conducted for this research for example, the 2011 Cooperation Council meeting with Kazakhstan (attended by the author) was chaired by Polish Foreign Minister Radoslaw Sikorski as High Representative Catherine Ashton was unavailable.

The most sensitive issues are discussed at informal (off the record) lunches that take place between the (on the record) morning and afternoon sessions. Conducted in small groups (usually roughly 5 on each side) these are held at head of division and director level with perhaps the desk officer for the country present in the case of Association/Cooperation Committees and at a higher level in the case of Association/Cooperation Councils. Such lunches are most likely to include exclusively EEAS officials and officials from the EU Special Representatives office. The most restricted points for discussion, including the sensitive aspects of energy cooperation such as the Southern Corridor and relations between the respective Caspian country and Russia take place in these more intimate, off the record, lunch fora.

Bringing together all five Central Asian countries, Central Asia-EU ministerial meetings are multilateral and held at the level of Caspian foreign ministers, the EU Special Representative and either an EU Foreign Minister, the High Representative or a Commissioner. In addition, there are of course also other informal meetings between

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185 Personal observations, Brussels March-July, 2011
186 Ibid
diplomats at all levels, including regular visits to the region from Commissioners and EU Special Representatives.\footnote{Ibid}

Other important diplomatic tools of energy policy with suppliers are energy memoranda of understanding (MOU) which outline areas of energy cooperation. Under the auspices of the MOUs, the EU holds annual meetings with senior representatives from these countries to discuss energy related issues of common interest. EU officials assert that while these MOU documents are political in nature and not legally binding, MOUs nonetheless play an important role in energy relations.\footnote{Interview EU Official [5], Brussels, Autumn 2011} MOU meetings with Central Asian countries take place in the margins of Cooperation Councils (or similar meetings) and officials assert that much work goes into pushing cooperation on the areas outlined in the MOU agreements with partner states.\footnote{Ibid} As such, officials suggest they provide valuable benchmarks for third party action and a (discursive) tool through which to pursue EU preferences. MOU meetings are conducted by officials from DG Energy with EEAS and DG DEVCO officials in attendance.

Furthermore, there is extensive diplomatic activity conducted by the EU delegations in the region and, as would be expected, delegations are at the forefront of the EU’s proactive and reactive diplomatic activity. Interaction here occurs at numerous levels with technical meetings taking place between officials from the EU delegation and Caspian administrators, up to meetings at the level of ministers and ambassadors. The EU delegations play a particularly important role in commercial and problem-solving diplomacy. Indeed, in the case of Kazakhstan, EU officials describe how the EU has a number of potential reactive options in the event of a dispute between investors and the government. Firstly, the EU can take advantage of low-level technical meetings with

\footnote{In the South Caucasus/Central Asia region, the EU has signed MOUs with Kazakhstan, Azerbaijan, Uzbekistan, and Turkmenistan (see chapter one).}
Kazakh officials to raise an issue and explore whether a speedy resolution is possible. Secondly, in more significant cases, the EU will utilise contacts in the Kazakh government to send an official letter or have a meeting so as to set out their point. Recent examples include a joint letter sent by the EU on behalf of a number of EU member state ambassadors to the Kazakh Prime Minister on the imposition of new (more restrictive) licences for engineering companies that were thought to have a negative effect on energy business operations.\(^\text{191}\) Thirdly, the EU can also send an official *demarche* to the ministry of foreign affairs which will often be followed-up by a related meeting with Kazakh officials.\(^\text{192}\) Such meetings will sometimes be undertaken by the EU delegation (with member states kept up to date with regular debriefs and written briefings)\(^\text{193}\), and at other times officials from the EU delegation may go to meet Kazakh counterparts with a number of EU member state officials present (and sometimes those from non-EU states such as the United States)\(^\text{194}\). At times, EU ambassadors will collectively make a visit to Kazakh interlocutors together so as to emphasise the importance and degree of common EU agreement on a particular issue.

In the upstream, the institutional distinctions between EU institutions matter far less than they do in Brussels. In the Caspian delegations, Commission and EEAS colleagues work very collaboratively alongside each other – with little evident distinction between them on a day to day basis. Likewise, as will be discussed further in the next chapter, divisions between member states and the supranational organisations (Commission and EEAS) are less significant and relations more cooperative in the upstream than they are in Brussels.

\(^{191}\) Interview EU official [27], Astana, Summer 2012

\(^{192}\) The Kazakh Foreign Ministry prefers this option and protests when EU officials go outside of the designated procedures for issuing a complaint.

\(^{193}\) Interview EU official [27], Astana, Summer 2012

\(^{194}\) Interview member state official [30], Astana, Summer 2012
THE SHIFT TO SUPRANATIONAL COMMERCIAL ENERGY DIPLOMACY AND POLITICAL SUPPORT

Having discussed EU energy diplomacy and the link between commercial diplomacy and energy diplomacy, this section now examines the extent to which member states and energy companies see the EU as the appropriate level at which energy diplomacy should be conducted. The previous chapter argued how member states and (to a slightly lesser extent) energy companies demonstrate support for EU energy governance policy in the Caspian.\(^{195}\) Despite the sensitivity of the EU conducting foreign energy relations (described in chapter one) this section identifies how the EU-level is also increasingly seen by companies as an important source of broader commercial energy diplomacy and reactive political support for companies alongside, and sometimes in place of, member states. While member states continue to back their own energy companies, in light of the convergence on political risks highlighted above and in support of the broader energy governance and investment protection functions listed in the previous chapter, the EU is increasingly seen by both energy companies and member states as a core venue for political support. Correspondingly, as will be described below (and in chapter seven), companies and member states also encourage a greater systematic interaction and information sharing between EU public and private actors.

In the context of an evolving EU external energy policy, the value of EU political support for companies is two-fold. Firstly, in some circumstances, the EU can collectively present more political weight than individual member states. Secondly, the EU represents an alternative avenue of available support when reliance on a particular member state is not politically expedient. This is especially the case when there are bilateral tensions between a member state and a third party energy producer. This type of engagement with the EU is a conscious form of risk mitigation strategy for companies. Just as political actors are keen

\(^{195}\) Even if this often amounts to encouraging EU support for international rules and norms, such as those of the WTO for example, rather than strictly EU-administered institutions and norms.
not to be too dependent on small numbers of “contracting parties” (i.e. companies – see chapter four), energy companies stress how a diversified network of supporting political actors is also part of their political risk mitigation strategies.\(^{196}\)

Likewise, while member states are cautious about supporting a strong EU role in energy, in terms of commercial upstream energy diplomacy, a number of member states express a clear desire for a robust EU role. As will be described below, EU member states see the EU as providing an opportunity for more influence in Kazakhstan than member states operating alone.\(^{197}\) In these circumstances the EU is thought to provide a way to pool resources and exert more influence.\(^{198}\) Generally speaking, from the member state perspective, the EU provides a rational way to achieve economies of scale and have more influence with external energy players, such as the Caspian energy producers. This is particularly the case given the ambiguity created by the declining global role for the United States (traditionally a supporter of Western energy majors) and the international relative weakening of West/European powers more broadly in relation to other states such as Russia and China.

**A strong EU risk mitigation and political support role and greater company-EU interaction**

All the companies examined here present a high degree of support for EU-level involvement in energy diplomacy. Indeed, Eni (2011, p.4), which experienced a major investment dispute with the Kazakh Government in 2007 (Lillis, 2007) argues that the EU “should politically support the industry when it comes to establishing and preserving key relationships” and that the “primary aim of any EU energy external action should be that of applying all political tools at the EU level to guarantee international investment protection” [emphases added]. Eurogas notes that EU political dialogue “can only be beneficial for the

\(^{196}\) Interview energy company official [34], Brussels, Autumn 2012
\(^{197}\) Interview EU member state official [30], Summer 2012
\(^{198}\) Ibid
business climate". RWE (2011, p.2) suggests that the “EU should carry on its efforts to provide, at a political level, strong and reliable legal and institutional frameworks through mutual and beneficial relations with producing and transit countries”199. Centrica (2006, p.2) argues that the EU should “take the lead in a common external policy on energy, for example, by promoting relations with the main energy producing nations” (p.2) as well as dialogues aimed at “mitigating producer power” [emphasis added] (p.5). OMV (2011, p.1) notes how the EU is able to bring “added value to its industry” by enacting “mutual beneficial relations with producing and transit countries outside the EU” [emphasis in original].

Despite having been cautious about a foreign EU role in energy in some areas (see chapter one above), a number of member states echo company calls for a greater EU political support role. The French Government (French Permanent Representation, 2011, p.2) notes that “an important objective of partnerships between the EU and producing countries (notably gas producers) must be support for European energy companies present in these countries, who are, and who will remain, the principal agents of European energy supply”. The Czech Government (2011, p.3) notes how “not all issues are better dealt with at the national level” and that “some strategic objectives might be better secured by pooling and coordinating actions”. Likewise, they highlight the EU role in “protecting European investments” (Government of the Czech Republic, 2011, p.1-2). The Polish Government stresses that the EU should elaborate a coherent “approach to the issue of counteracting negative phenomena related to the interference of third countries (producers) in the energy raw materials market” (Polish Ministry of the Economy, 2011, p.4).

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199 RWE (2011, p.3) proposes that the EU develop “tools or products” that it can offer “to companies who are doing business in development [sic] countries providing political risk cover”. Likewise (RWE, 2011, p.3) they note how EU involvement in international governmental agreements helps to “facilitate” business relations.
Following aspirations for a stronger EU support role for the private sector, companies demonstrate a corresponding desire for close collaboration between EU officials and energy companies. OMV (2011, p.2) suggests that “improved consultation with the industry would help in ensuring that the European Union weighs in fully on key international issues”. Statoil notes that the EU should use its “convening power to bring industry players more systematically into the policy-making process at an early stage”...“especially in preparation for visits and missions abroad” (2011, p.3). OGP (2011, p.4) expresses a desire to see the Commission hold regular meetings with industry and civil society regarding external energy relations. Eurogas (2011, p.6) notes that given the “potentially large investment needs”, European companies “should be regularly consulted by policy makers with respect to how external energy objectives are delivered”. They stress that they will be able to “contribute most if there is close coordination around political visits where there is an overlap of industry and political interests” (Eurogas, 2011, p.7).

Perhaps most surprisingly, a number of EU member states also welcome closer direct links between the EU and energy companies. On this topic, the French Government has reiterated that energy companies are the key actors in European energy supply and suggests that “a close cooperation with the principal [industry] operators is essential to reinforce the European energy policy” (2011, p.5). The Polish Government (Polish Ministry of the Economy, 2011, p.11) suggests that the EU institutions should be free to contact energy companies and relevant non-governmental organisations when “developing new solutions for external energy policy”. For the UK, the Former Soviet Union, including the Caspian, appears to be a particular area of importance in terms of EU institution-company interaction. Despite noting that the Commission (2006a, p.25) needs to provide “assurance that legitimate interests of member states are not prejudiced in
areas where the Community has not competence” the British Government highlights that “the UK would also support continued working between the Commission and businesses active in Russia, Caspian and Central Asia to get a better understanding of the problems of doing business there” [emphasis added]. They do note however that “it is important that this is carried out in a transparent way with clear objectives and appropriate member state involvement” (UK Government, 2006, p.28).

Specific EU role in Central Asia/Caspian

While all the companies reviewed in this section are either active in the Caspian or engaged in projects that rely on Caspian supply, several companies expressly spell out their desire to see the EU active in the Caspian region. Shell calls explicitly for EU political business support in Central Asia, arguing that a significant up-scaling of Commission and member state government financial and political resources invested in Central Asia is needed” (Royal Dutch Shell, 2011, p.4). Shell also notes a role for the EU in intergovernmental agreements and calls for help with sovereign risk and political support in general (Royal Dutch Shell, 2011, p.6). RWE (2011, p.3) talks of the need for the EU to support “trust-building and partnership” with states of Central Asia. Eurogas notes that the countries of the Caspian and Central Asia region are of “strategic importance” (2011, p.2). OMV (2011, p.2) discusses the need for an EU “political/diplomatic and financial umbrella” in relation to transport capacity development in the Caspian region. Likewise, Statoil (2011, p.3) stresses the benefits of high level diplomacy in the Caspian such as visits by Commission President Barosso to Azerbaijan and Turkmenistan in 2011. The Caspian region is also similarly mentioned by some member states. The UK Government noted in 2006, for example, that the EU should review its representation in the Caspian/Central Asia region arguing that EU resources should be at the right level and with the right competencies “to add value to the relationship between the EU and the

200 Shell also suggests that in Central Asia “the development of a long-term relationship on the model of a post 1989 EU-Eastern bloc effort is required” (Royal Dutch Shell, 2011, p.4).
region's governments” (2006b, p.4). UK officials spoken to in 2012 welcomed the fact there is a dedicated EU energy officer covering the Central Asia region.  

Changing conditions, developing roles: Explaining company and member state positions on EU level commercial diplomacy

There are multiple reasons why EU-level commercial diplomacy might be preferable to support from national governments. Firstly, as power shifts globally eastwards and the USA and European countries decline relatively vis-à-vis other parts of the globe, a single European member state may not have enough influence to fully support a company, particularly in the face of increasingly assertive producers in geopolitically-contested regions such as the Caspian. In such circumstances, European-level action presents an opportunity for greater influence. Secondly, in situations where a member state has poor political relations with a producer government (like the UK in Russia, Germany in Azerbaijan or Spain in Argentina), the EU may offer a form of “institutional camouflage” (Wood, 2009, p.613) presenting a more ‘neutral’ and less politically-divisive source of support. This is similar to what Wood (2009, p.611) has described as “pragmatic realist-institutionalism” where member states come together under an EU banner to stop difficult bilateral political issues hindering the pursuit of state interests.

Furthermore, for companies, there are risks involved with being dependent on a single source of political support (Henisz & Zelner 2011, p.214). These include the fact that national governments may not prioritise issues as much as a company and governments may be prepared to sacrifice company objectives for broader political issues. While outside of the Caspian region, the case of Argentina’s nationalisation of Spanish company Repsol in 2012 provides an example here. Following the Repsol expropriation, the EU

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Interview UK Government Official [30], Summer 2012
started WTO proceedings against Argentina, partly as a response to the nationalisation. As Minder (2012) notes, in raising these issues with the EU, the Spanish Government had been warned by its trade lawyers of the risk to other Spanish companies in Argentina had it acted unilaterally. This fact also highlights, however, how other considerations (the interests of other Spanish companies etc.) might have limited Spain's ability to respond to the Repsol crisis (Minder, 2012). This case highlights the value for companies of having the EU as a source of diplomatic support. Just as the EU and member states seek to manage risk by diversifying sources of supply, routes and counterparties, companies seek to manage instances of political risk by having multiple sources of political support.

*Shifting power and shifting modes of political support*

Numerous commentators have observed a relative power shift from the West to the rising ‘Eastern’ countries (Lee, 2013). From a European perspective this shift has been accompanied by a realignment of the United States' global imperatives away from Europe and Eurasia. One EU official noted, for example, that since the coming to power of the Obama Administration in 2008 there had also been a subtle yet perceptible desire on the part of the US to avoid policies in Central Asia that might be likely to cause tensions with Russia. In the face of these trends, one official from a prominent energy company described how it was important for the EU to be present in the upstream given the perceived declining role of the United States. They proposed that the EU might be able to replace the US in this role if it developed in the right way (i.e. developed a strong capacity for providing political support and the projection of influence). They highlighted for example how projects in the South Caucasus, such as the BTC pipeline, were backed

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202 While these actions were instigated following a series of Argentinian trade infringements, the Repsol case is reported to have been the “straw that broke the camel’s back” (MercoPress, 2012).

203 Interview EU official [8], Brussels, Summer, 2011,

204 Interview energy company official [34], Brussels, Autumn 2012,

205 The BTC pipeline transports oil from Baku in Azerbaijan, through Tbilisi in Georgia to Ceyhan in Turkey from where it is shipped to world markets. It was one of the first pipelines to break the
politically by the United States and were based on strong cooperation between the US and a number of private companies. Company officials contend however that this backing was now waning and that the EU needed to fill the void. This, they argued, was an expected progression, inevitable given the US’s other priorities, and it was thus natural that the EU should then lead. Similarly, companies such as RWE, note that creating a conducive political and regulatory environment outside of the EU may be an impossible task for both industry and individual member states and only possible at the EU level (RWE, 2011, p.3).

Member states also recognise how the EU-level can offer more diplomatic weight in energy than national capitals alone. One German Government official noted that member states acknowledge that international energy relations are becoming more challenging (given the increased assertiveness and power of producers), and that the Union is consequently evolving to meet this reality. They noted that while small member states may prioritize the most important aspects of their respective external environment (with small eastern member states prioritising relations with Ukraine/Belarus/Russia etc.) larger member states try to cover all geographical regions, and consequently get stretched in places like Central Asia. A UK government official noted that in the Caspian region, the UK has more influence when working in collaboration with other EU states (and sometimes non-EU states such as Switzerland or Norway). They stressed that while UK lobbying gets noticed by the governments in the region, political pressure is more effective when member states are speaking for all European companies in conjunction with

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206 US input was instrumental in supporting the construction of the BTC pipeline, appointing Richard Morningstar as a special representative to the region, assisting with investment promotion, through visits of regional leaders to Washington and through a number of visits including from the Secretary of State Colin Powel (Goel, 2004, p.486).
207 Interview energy company official [34], Brussels, Autumn, 2012
208 Interview German government official [22], Brussels, Summer, 2012,
209 Ibid
210 Interview UK government official [30], 2012
Commission delegations (see, for example, the case of increasing Kazakh local content rules in the next chapter)\textsuperscript{211}.

\textit{A more ‘neutral’ source of support}

The EU is also seen as a potential option for political support for member states when the seemingly more neutral banner of the EU allows states to present difficult messages without negative repercussions. Similarly, EU support is also expedient from a company point of view, when it is either impossible or politically disadvantageous to seek the diplomatic help of a home government due to poor state-state relations with the producer state in question.

As mentioned above in the Spanish-Argentinian Repsol case, circumstances exist when member states are unable to support companies because of their own existing political tensions with producing countries. Other recent examples that have hindered the foreign policy capacity of member states include the poor relations between the UK government and Russia over several issues (including the murder of Alexander Litvinenko) and German tensions with Azerbaijan over human rights issues\textsuperscript{212}. Under such circumstances, the EU presents a useful avenue for states to pursue their energy interests by providing forms of “institutional camouflage” (Wood, 2009, p.613). British companies operating in Russia, for example have been known to turn to the EU when disputes between the UK and Russian Governments meant that representation by the UK may do more harm than good in the resolution of a dispute.

Under such circumstances, the European Union is thought by both member states and EU officials to be seen as a more ‘neutral’ actor than other international players (and most individual member states) in international affairs. As will be discussed further in the next

\textsuperscript{211} \textit{Ibid}

\textsuperscript{212} Interview energy expert, Brussels, Autumn 2012; Interview EU official [26], Brussels, Summer 2012
chapter, one EU official contended that Central Asian states trust the EU more than the US, Russia or China and that the lack of defence/military aspect to EU external interaction in the Caspian region reduces fears of the EU relative to other actors. Another EU official noted that the EU does not try to directly coerce states in the Caspian region and is thus seen as a more straightforward negotiating partner than others. Indeed, energy companies appear to stress that the EU should seek to retain this neutral image, acting as a mediator, maintaining positive relations with producer states and refraining from actions that might cause political or commercial tensions (Royal Dutch Shell, 2011, p.6). In its response to the 2011 Public consultation on external energy policy, Shell (2011, p.6) argues that "it is important that the EU avoids the creation of unnecessary obstacles and a possible negative impact on commercial relations and negotiations". While they do not highlight what such obstacles could be, it is probable that factors such as trade sanctions and human rights/political concerns are likely to feature. Likewise, one EU official asserted that in addition to questions concerning legal and governance regimes, companies most commonly lobby the EU to maintain positive political relations with third party countries.

Member states exhibit similar opinions. One German Government official, for example, contended that, from the perspective of Central Asians, the EU is seen to be far away and a more neutral actor than others. Action through the EU is also therefore seen to be able to neutralise the potentially negative perceptions amongst third party actors of single European states based on historical factors or previous disputes. Another official from an EU member state suggested that the EU banner is useful when a member state wants to

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213 Interview EU official [8], Brussels, Summer 2011. - Russia is a moot point depending on which Caspian/Central Asian state you speak to.
214 Interview EU official [10], Brussels, Summer, 2011,
215 Interview EU Official [4], Brussels, Summer, 2011
216 Interview German government official [22], Brussels, Summer, 2012
217 Ibid
deliver a difficult message to a third party country in Central Asia as people were less likely to “get grumpy” if the message was seen to emanate from the European Union. From a company perspective, the EU’s more neutral appearance is particularly useful when both company and home government are involved in (different) disputes with a producer government. Under such circumstances a company may wish to minimise their association with the home government so that the wider dispute does not hinder the resolution of the company’s particular issue. An energy expert interviewed noted how the UK government has at times been unable to help British energy companies in Russia because of difficult Russia-UK bilateral relations. UK companies have had, for example, difficulties getting visas for high level officials following disputes with the Russian government. Under these sorts of circumstances, the EU presents a more viable source of political support.

In such a situation companies will approach officials in the EU Commission and the External Action Service, find out who will next be making a visit to a country in question, ascertain who is able to raise their issue with senior politicians and ask that these issues be placed on the agenda. Companies, one EU official noted, tend to rely on personal relations when they decide who to approach in the EU and member states. They do, however, regularly approach the EU directly rather than going indirectly via member states. Companies generally do not ask the EU to schedule specific meetings with third party countries as this may draw too much attention to a particular situation and negative attention to them (and it is unlikely that the EU would do so anyway – see below). Concerns for one company are however often wider problems for the industry as a whole.

218 Interview EU member state official [30], Astana, Summer 2012
219 Interview EU energy company [34], Brussels, Autumn 2012.
220 Interview energy expert, Brussels, Autumn 2012
211 Ibid
222 Interview EU Official [27], Astana, Summer 2012
223 Ibid
so EU officials or representatives are able to raise it as a broader issue\textsuperscript{224}. When the EU has taken up an issue (such as support in an investment dispute), it keeps member states and companies up to date through regular meetings and briefing reports\textsuperscript{225}.

\textit{Recognising the commercial-security overlap: Framing and company risk mitigation strategies}

Energy companies clearly recognise that the EU presents a potential source of diplomatic support (Eni, 2011, p.4; Shell, 2011, p.4; Statoil, 2011, p.3; Eurogas, 2011, p.3). Indeed, from the perspective of some energy companies, engagement with the EU is an important part of their broader risk mitigation strategy\textsuperscript{226}. Analysing companies’ responses to EU public consultations on energy policy (and other public documentation), one can identify company attempts to garner EU level political support by framing themselves as essential to European energy security and the ‘Europeaness’ of their operations. Indeed, as part of their wider engagement with the EU, a number of energy companies appear to be well aware of the overlap between EU energy security and commercial objectives discussed in this chapter (and chapter four) and are thus keen to demonstrate their ‘European’ credentials and the importance of their operations for European energy supply security. In doing so they appear to be seeking to ensure that the EU recognises the overlap between European energy security and their particular business interests. BP, for example, stresses that they are a European company as well as a British one\textsuperscript{227}. BG Group notes how their “strong position in NW Europe”, their “portfolio of gas supply capable of accessing European markets” and their gas import terminals in Wales and Italy make the group “potentially an extremely significant contributor to EU diversity of gas supply” (BG Group, 2006, p.1). Eurogas asserts the “importance of the European gas industry in contributing

\textsuperscript{224} Ibid
\textsuperscript{225} Interview EU Official, Astana, Summer 2012
\textsuperscript{226} Interview energy company official [34], Brussels, Autumn 2012
\textsuperscript{227} Ibid

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to a sustainable energy supply for Europe”\textsuperscript{228} (Eurogas, 2006, p.1). Royal Dutch Shell however is perhaps the most prominent in displaying their ‘Europeanness’. “Shell”, they note, “is a European company with our global headquarters in Holland, our downstream headquarters in Britain and major operating and research centres across Europe” (Royal Dutch Shell, 2006, p.1). Royal Dutch Shell, they note, “plays a role in bringing gas into the European market and distributing gas across the EU” (Royal Dutch Shell, 2006, p.1). They also utilise the European theme to demonstrate their importance to the EU economy and energy market highlighting that “Shell employs 50,000 in the EU, has interests in 17 refineries, maintains a network of 15,000 service stations, has Upstream [sic] interests in eight countries and serves over seven million customers a day” (Royal Dutch Shell, 2006, p.1). “Europe”, they note, “represents a core operating area for Shell and we are here for the long-term in both the upstream and downstream operations” (Royal Dutch Shell, 2006, p.1).

**SUPPORTING THE GENERAL INTEREST RATHER THAN THE PARTICULAR: PERCEPTIONS AND LIMITS OF THE EU POLITICAL SUPPORT ROLE**

However, despite the EU’s growing support role in the area of upstream diplomacy, the EU does not represent a direct replacement for member states. Indeed, this section contends that there is a fine, but nonetheless distinct, division between the general nature of EU commercial energy diplomacy and the specific business interests of particular companies. Indeed, while companies will seek to engage with the EU when they face a difficult upstream issue, unlike member states, the EU is not keen to provide particular support at the behest of individual companies. Rather, the EU seeks to reflect the general interest of the upstream sector and thus is most concerned with upholding or countering breaches to energy principles and norms that apply to the upstream-operating sector as a whole, even

\textsuperscript{228} They note that “European gas companies will be required to meet the challenge of filling an increasing [EU] supply gap at the same time as appetites for gas in Asia and the United States are rising” (Eurogas, 2006, p.1).
though this may happen to favour a particular company or group of companies in a particular instance.

In the face of an increasing degree of interaction between private actors and European institutions, (discussed also in the next chapter) both sides remain broadly clear on the division of labour between them. As discussed above, companies generally speaking are keen to see the EU involved in the maintenance of political relations, investment conditions and in the resolution of disputes, but seek to discourage any impingement on their freedom for action as businesses. EU actors, for their part, are willing to be active in the general promotion of governance frameworks and the general support for the industry as a whole, but are cautious about being drawn into what are perceived to be the specific business issues of individual companies.

While companies express a clear desire for the EU to be involved in political matters, they are keen to spell out that the EU should not be involved in any way that impinges on their business practices. Eni (2011, p.3) suggest that it is “companies’ responsibility to carry out commercial negotiations” and that the EU’s role should be to politically support this process. Similar sentiments are expressed by Eurogas (2011) and OMV (2011). RWE (2011) gives a clear description of their perspective on division between the EU and companies. They argue that the EU’s role is to be involved at “a political, non-commercial level” in order to enable “European interests in energy be pursued on a commercial basis by commercial entities” [sic] (RWE, 2011, p.3). They note a clear distinction between political support in the form of EU involvement in intergovernmental agreements, for example, and “commercial agreements, such as gas purchase agreements” that “should remain the task of private enterprises"\textsuperscript{229}” (RWE, 2011, p.3).

\textsuperscript{229} This is a reference to the EU’s potential idea to develop a Caspian Development Corporation that would pool EU company resources so as to be able to buy gas in bulk from Turkmenistan. The CDC could, if enacted, somewhat blur the division between the EU’s political support role and the role of business.
Some member states echo this distinction, expressing their desire not to be involved in any decisions related to business. One UK official noted that the job of the UK government in the Caspian region was to help companies overcome political difficulties. They stressed however that this did not relate to *business* difficulties. Officials noted that they are not businessmen and stressed that companies would resist such a role in any case. Rather the member state role was, they felt, to help with political and legal difficulties. The French government similarly calls for respect for the “autonomy of market actors” (French Permanent Representation, 2011, p.5). Member states are, however, of course quicker to support national companies than they are the broader industry. Nonetheless, as will be described in the next chapter, pushing the interests of a national oil company can sometimes entail the pursuit of objectives that benefit the industry as a whole and facilitate intra-European cooperation.

EU officials are quite clear in spelling out what they see as their role in terms of political support. One EU official noted that there are both formal channels of communication between energy companies and EU officials (such as through industry associations) and that it is quite common for EU officials to have less formal direct contact with industry officials from both companies and associations, most often at Head of Unit level. They noted that in general companies are well aware of what the EU can and cannot do in external relations, but that they will try to involve the EU when disputes occur as a counter to pressure from a host-government. Perhaps unsurprisingly, companies are strongly concerned with getting representation for themselves and seek to have a privileged position vis-à-vis other companies. Officials stress, however, that in the case of disputes, the EU prefers to occupy itself with the specific principles and implications of the dispute in question, rather than the business situation of particular companies. The EU will seek to

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230 Interview UK Government Official [30], 2012
231 Ibid
232 Interview EU Official [5], Brussels, Summer 2011.
233 Ibid
234 Interview EU Official [14], Brussels, Summer 2012
engage with upstream countries, pointing out how a dispute might hurt their international standing and damage their ability to attract investment\textsuperscript{235}. For EU officials, their role (in terms of support) concerns reacting to infringements that affect the general interest of the upstream energy industry rather than the particular case of any individual company-host government dispute. The EU, they aver, does not try to take sides, but rather seeks to engage both parties in dialogue so as to ensure dispute resolution. It is clear however, that by raising issues and by promoting resolutions on the basis of certain frameworks, the EU institutions are not strictly speaking ‘neutral’ observers – however presenting themselves as such may carry a degree of weight, especially when they are appealing to international norms that states have signed up to or are thinking of signing up to (such as the Energy Charter or WTO). Furthermore, it is clear that officials do not want be seen as on the ‘side’ of the companies. Another EU official argued that it was not the job of the Commission or EEAS to intervene in specific, precise business affairs or to promote the particular interests of specific companies but rather, as described above, the EU should engage when necessary to uphold particular norms and frameworks that affect the general interest of the industry\textsuperscript{236}. It was important to note, they asserted, that there was a strong distinction between business affairs and broader governance and legal matters. Sometimes a specific issue for a company (such as attempts to corrupt, tax issues, investment pressure) raises a broader systemic sector-wide issue and under those circumstances it would be, in their opinion, the EU’s responsibility to react\textsuperscript{237}. As described in the next chapter the industry structure in certain upstream markets (such as Kazakhstan) means that issues for one company (and by implication member state) can easily become broader country-wide issues affecting a number of European actors. Under such circumstances, EU action may of course benefit a specific company in that particular instance, but this would be a

\textsuperscript{235} Interview EU Official [5], Brussels, Summer 2011.
\textsuperscript{236} Interview EU Official [4], Brussels, Summer 2011.
\textsuperscript{237} Ibid
secondary consequence of EU action, rather than a direct EU motivation\textsuperscript{238}. Furthermore, as described above, companies recognise the value of preserving the EU's more 'neutral' position and from their own point of view do not wish to be singled-out as enlisting political support as this can carry costs in terms of their relations with host governments.

Nonetheless, the EU Commission and EEAS are generally speaking cautious about being seen to be too close to energy companies. The Commission is keen not to be seen to overly reflect the interests of industry players, particularly in the light of debates about the gap between EU rhetoric and normative policy (Bailey & Bossuyt, 2011). This point is reflected in the EU’s rare mention of energy companies in official documentation and public discourses, despite their being core energy actors and the EU’s promotion of governance frameworks that directly relate to companies. In interviews however, EU officials do express the importance of engagement with companies. One official noted how some criticise the EU for having too much interaction with companies but remarked in turn that it is impossible to regulate an industry without having contact with it (see below)\textsuperscript{239}. Another EU official remarked that people should not be surprised by EU support for companies given the EU’s origins as an economic project\textsuperscript{240}.

Nonetheless, EU officials are very keen not to be seen to be 'picking winners' amongst companies. Company officials note that for commercial reasons energy businesses do not like to interact with each other and as such they prefer bilateral meetings with EU officials\textsuperscript{241}. Companies are also however very sensitive to perceptions of favoured treatment for other firms (and the advantages this might imply). As such, officials are consequently keen not to be seen to be providing preferential access for specific businesses. Energy industry associations such as Eurogas and OGP are reportedly very useful in this regard as they permit EU-industry interaction in a way that raises fewer

\textsuperscript{238} *Ibid*  
\textsuperscript{239} Interview EU official [5], Brussels, Summer 2011  
\textsuperscript{240} Interview EU official [19], Brussels, Summer 2012  
\textsuperscript{241} Interview Energy company official [34], Autumn 2012
questions about the particular influence of certain firms and reduces the perception of ‘picking winners’. Industry associations are however also useful from the EU’s perspective for other reasons. Associations can provide an overall industry-wide perspective on relevant energy developments (such as the new transparency requirements described in the previous chapter) and offer an opportunity to coordinate with a large number of players. The EU has utilised the economy of scale presented by associations such as Eurogas, for example, to organise conferences and seminars with companies on issues such as sour gas treatment in Turkmenistan.

Operating through associations has drawbacks however. While associations sometimes present a coherent message, at other times, when companies are not in agreement on an issue, energy associations may represent only the lowest common denominator. Furthermore, an association may not have access to detailed information on specific cases that the EU needs. Officials note that sometimes the EU needs to engage specifically and directly with a small number of major companies when they need detailed information on particular situations (such as government actions, the impact of EU-Caspian state agreements or issues concerning a specific consortium or a particular part of the market). This interaction will sometimes take the form of informal written consultations and sometimes direct meetings. In the Kazakh context, EU officials talk of high levels of interaction with companies operating in the Kashagan consortium, for example. EU officials regularly meet both formally and informally with officials from numerous energy companies both in Brussels and in the Caspian delegations to discuss a wide range of issues such as discriminatory government actions, investment matters, “doing business” issues and restrictions on personnel or local content for example.

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242 Interview EU official [5], Brussels, Summer 2011
243 Ibid
244 Ibid
245 Ibid
246 Ibid; Interview EU official [27], Astana, Summer 2012; Interview EU official [17 & 18], Brussels, Summer 2012
These companies, with excellent contacts in Caspian governments, often have specific information on developments that the EU needs to be able to conduct upstream political and diplomatic action (discussed further in the next chapter).

CONCLUSION

This chapter has discussed the EU’s energy diplomacy in the Caspian region. In particular it has highlighted the overlap between energy diplomacy and commercial problem-solving diplomacy born of the EU’s reliance on energy companies. The first section discussed energy diplomacy, the relationship with commercial diplomacy and some of the ways that energy diplomacy contributes to the mitigation of risk. The second section turned attention to the EU’s diplomatic practices in energy highlighting some of the key forums for, and modes of, diplomatic interaction. This section also drew attention to the overlap between the responsibilities of the EEAS and the Commission in energy diplomacy and highlighted some of the reasons why tensions here are often overcome in practice. The third section, investigated company and member state perspectives on the supranationalisation of commercial energy diplomacy. It contended that energy companies and member states support both a strong role for the EU in energy diplomacy and a high degree of public-private interaction between the EU institutions and the commercial energy sector in the process of formulating and carrying out energy diplomatic activity. Member states support an EU energy diplomacy role because they find the EU to be a potentially more rational and effective means by which to enact greater influence in politically-difficult regions such as the Caspian. Likewise, companies encourage EU commercial energy diplomacy as they see the EU as being, at times, able to offer more effective support than individual member states. This is particularly the case given the rising power of major emerging countries such as Russia and China, the growing strength of local energy-producing countries and the declining international presence of the USA and the West in general. Furthermore, the EU, it was argued, also provides a more
‘neutral’ outlet for the promotion of energy interests and provision of support either when member states want to deliver a politically-difficult message or when broader political disputes between third party countries and individual member states hinder the possibility of a member state being able to offer effective commercial diplomatic support for a company. Under these circumstances, the European Commission and EEAS offer a more ‘neutral’ and potentially more effective source of supporting energy diplomacy. Finally, this section highlighted that, just as public actors (such as the EU) seek diversity of supply, routes and counterparties to reduce their energy risk, companies equally seek diversity in their options for political support. The last section drew attention to the EU officials’ perceptions of the EU’s upstream political support role. It noted companies’ desires to involve the EU politically to counter the weight of producer governments and their simultaneous desire to preserve their business autonomy. It highlighted however, that EU officials very clearly see their role as providing support in the general interest of the upstream industry as a whole, rather than to promote the particular private interests of specific companies.
CHAPTER SEVEN

EUROPEAN POLITICO-COMMERCIAL INTERDEPENDENCE,
CATALYTIC DIPLOMACY AND RESOURCE DEPENDENCY IN
THE CASPIAN

With a particular emphasis on Kazakhstan, this chapter turns attention to the actual engagement, interaction and mutual dependence that underpins the upstream energy relationship between European political and commercial actors in the Caspian.

Indeed, this chapter uses a slightly modified version of Strange’s (1998) four-way typology of power to analyse the array of geopolitical-security, technical-production, financial and knowledge-based energy policy challenges EU actors face in the Caspian and the respective European resources employed to meet these challenges. As was mentioned in the introduction, Goel (2004) employs Strange’s model to assess US-company ‘bargain’ in the construction of the BTC pipeline in the Caucasus. This chapter builds on this analysis in a number of ways. Firstly, it strengthens this model by merging it with the concept of resource dependency and by applying it to European actors and the context of upstream politics (rather than to the US and midstream-pipelines). Secondly, the discussion below seeks to bring the Caspian structural environment into the equation, evaluating how EU company interaction reacts to the prevailing politico-economic challenges in the Caspian region.

Consequently, this chapter is divided into four sections that assess the (geo)political-security, production, finance and knowledge-ideational challenges in the Caspian region and the respective resources that different European actors employ (and share) to
mitigate these challenges. In doing so, this chapter analyses the resource dependency between EU actors (Eising, 2009, p.131; Bouwen, 2002, p.368; Hocking, 2004b, p.151) and provides insights into the catalytic diplomacy that characterises their upstream bargain. Resource dependency is particularly useful in analysing the contours of this upstream bargain. Indeed, in challenging politico-economic contexts such as the Caspian upstream, European political actors need to be able to devise policy that allows them to pursue their public objectives whilst ensuring that the private actors on whom they rely (and who in turn rely on them) can achieve their own ends (Eising, 2009, p.22). As was noted in chapter two, Hocking (2004b, p.151) suggests that in response to “evermore complex, multi-faceted security agendas” political agents are forced to bring together a range of actors that have “the capacity to contribute resources to the management of complex problems, whether these assume the form of knowledge and financial resources or, less tangibly, the conferment of legitimacy on processes and outcome”. This chapter sets out to examine the political-security, financial, technical and legitimacy/knowledge-based resources of the EU’s upstream energy cooperation.

In the investigation of the EU’s catalytic diplomacy and the implicit bargains it entails, this chapter makes a series of core arguments. Firstly, in terms of the geopolitical-security dimension, it contends that rather than pose a threat to the EU, the political and economic actions of Russia and China in the region are somewhat paradoxically a major source of EU influence. Indeed, and secondly, the chapter argues that the biggest challenge to EU objectives in Kazakhstan comes less from Russia and China than from the Kazakh state itself, especially considering the Kazakh Government’s increased desire and capacity to assert their sovereignty over the energy sector. In the face of this challenge the EU is responsible, increasingly, for providing support to companies. Thirdly, the chapter demonstrates how the EU’s collective reliance on the commercial sector, the nature of commercial upstream industry structures in the region and the common pressures that companies face foster the form of political unity between member states which allows the
EU to carry out an upstream market facilitation and political risk mitigation role. In the production and finance sectors however, the EU relies on the capacity of European (and other Western) companies to extract oil and gas as no other companies (from Russia, China, Kazakhstan or elsewhere) presently have the capacity to operate in the technically difficult fields of the Caspian region. As this chapter will argue, Caspian states of course rely on these Western companies too, and this tempers somewhat their ability to exert control and influence over the energy sector. Finally, in the knowledge/ideational dimension, this chapter discusses firstly how the EU has a certain degree of legitimacy-ascribing power and expert knowledge that it is able to use to influence Caspian governments and, secondly, how companies and the EU share information between themselves on developments in the region. These sections together demonstrate how the supply of various resources by both the EU and companies, as well as being an important factor in the energy politics of Caspian countries, also presents insights into the character of the EU-commercial actor relationship.

As in the previous chapters, there is no attempt here to claim that the EU has made member states obsolete in energy policy or that companies and the EU are in perfect alignment. Rather, the objective here is to demonstrate how European actors both interact closely and rely on one another in the Caspian upstream - highlighting the underlying factors that contribute to a higher level of European cooperation than ordinarily witnessed in EU energy policy.

**POLITICO-SECURITY: REGIONAL COMPETITION, MULTI-VECTOR BALANCING, DOMESTIC RISK CONSIDERATIONS AND THE ROLE OF EUROPEAN ACTORS**

This first section highlights a number of the challenges present in the region in terms of great-power competition, Caspian government multi-vector foreign policies, Caspian states' domestic strategies for development and empowerment, and the impact these have in turn on European actors. Furthermore, it demonstrates the respective roles European
political and commercial actors play and the resources that they employ in this challenging political environment.

Energy production depends on a secure and broadly stable political, security and legal environment. As discussed previously, the scale of energy company investments mean that companies need guarantees and protection against the non-commercial, political risks to their operations. Indeed, as Strange (1988, p.25) argued, it is impossible to have economic power (as an energy company might) “without the legal and physical security [state economic functions] that can only be supplied by political authority”. Given the European reliance on companies for energy provision, support for their business operations has direct energy security implications for the EU (Kachikwu, 2009, p.92).

Using the Kazakh example, this section argues that Russian and Chinese geo-political and geo-economic actions in the region provide a somewhat paradoxical opportunity for both the EU and the European energy industry to gain political influence. Secondly, it will highlight how Kazakh desires for state consolidation and control over the energy sector have actually presented the greatest upstream challenges in the region for energy companies. Thirdly, this section highlights how the challenges the Caspian region presents for companies, and the consortia-based nature of their operations, foster a form of intra-European unity that allows the EU to carry out its upstream market facilitation and risk mitigation role.

**Regional competition in the Caspian: An opportunity for European influence?**

The Caspian Sea is often considered to be a site of fierce regional competition between Russia, China, the EU and the USA (Cooley, 2012; Menon, 2003; Kleveman, 2004; Zabortseva, 2012). This regional competition impacts on both the EU and energy companies as Russian and Chinese actions can present a challenge to Western interests.

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247 As recent upheaval in Libya, Algeria and Argentina respectively demonstrates.
However, unlike the original ‘Great Game’ where the major protagonists sought to dominate Central Asian leaders, today’s Central Asian states are sovereign and cannot be controlled in the same way. Adept at balancing between the major powers in the region (as described in chapter one), the regional aspirations of major powers are filtered through the multi-vector foreign policies of Central Asian states.

Despite what EU officials see as changing balance of power conditions in the region, the Russian Government continues to be highly suspicious of foreign involvement in what is traditionally considered its “backyard”\textsuperscript{248}. As noted in chapter one, the Russian Government seeks a privileged position in Central Asia (Cooley, 2012, p.51) with Kazakhstan seen by Russian leadership as the most important state in the region (Allison, 2004, p.284). There is little doubt that Russia and Kazakhstan have a strong relationship.

Due to their geographical proximity, shared Soviet history and the large number of ethnically-Russian Kazakh citizens in Kazakhstan, Kazakhstan shares more ties with Russia than it does with any of the other regional powers. Likewise, the two Governments share a similar political and economic outlook. Both Governments, for example, promote forms of “sovereign democracy” (Kimmage, 2006) and (perhaps to a lesser extent in the case of the Russian Government) “neo-Eurasianism” that emphasises the common bonds between the Russian and Turkic peoples of Eurasia (Laurelle, 2012, p.177). Likewise, both the Kazakh and Russian governments have been behind attempts to forge regional institutions such as the Eurasian Economic Community (EurAsEC) and subsequent Customs Union (Cooley, 2012, p.59-60; Vinokurov, 2010, p.6).

Yet while Russia is undoubtedly the primary foreign partner for a number of Central Asian states, most notably Kazakhstan, governments in the region are still keen to maintain their independence from Russia and engage with other powers (such as the EU). Despite public displays of unity such as the consecutive “year of Kazakhstan in Russia” in 2003 and the

\textsuperscript{248} Interview EU official [8], Brussels, Summer 2011.
“year of Russia in Kazakhstan” 2004 (Putin, 2004), EU officials argue that the Kazakh Government does not fully trust the Russian leadership and consequently wishes to reduce its dependence on its northern neighbour. Evidence of Kazakhstan’s desire to maintain a healthy distance can be seen in Russia-Kazak relations within EurAsEC (Jarosiewicz, 2013). While President Nazarbayev was one of the main instigators of EurAsEC, the government is also sceptical of the risks of increased dependence on Russia that forms of political integration might bring and consequently has stressed in public the economic rather than political nature of the project (Jarosiewicz, 2013; Konyrova, 2013). Over-reliance on Russia would, Jarosiewicz (2013) argues, run counter “to the policy Nazarbayev has maintained over the last two decades, of strengthening Kazakhstan’s sovereignty and independence, and harbouring ambitions for his country to play an independent role on the global stage”.

Likewise, despite growing ambitions in the region, increasing Chinese presence in Central Asia fuels Kazakhstan’s multi-vector foreign policy orientation and provides openings for the EU. European officials describe the Chinese Government and Chinese business sector as fierce economic competitors in the region. Over the last decade the Chinese government has been growing in influence in Kazakhstan with Chinese businesses emerging as a major source of foreign direct investment, particularly as other sources of FDI reduced following the financial crisis (Vinokurov, 2010, p.6). Indeed, during the midst of the financial crisis in 2009 that badly affected Kazakhstan, China provided financial assistance to the Kazakh government, offering a $10 billion dollar loan and $3.5 billion industry programme (US State Department of State, 2009d). When asked by (then) Prime Minister Vladimir Putin why Kazakhstan had accepted money from China, Kazakh Prime Minister Massimov reportedly put out his hand and responded “what do you have to offer?” (US Department of State, 2009d).

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249 Ibid
250 Ibid
While China is less overtly political in its involvement in the region than Russia, Chinese economic influence has made the Chinese government increasingly influential amongst Central Asian leaderships. Indeed, EU officials argue that Chinese influence is directed through the economy with China seen to be buying-up companies and investing in a steady but increasingly strategic fashion in the region. For example, in recent years, Chinese companies have obtained a number of major strategic acquisitions in the Kazakh energy sector such as investments in PetroKazakstan and an 11% stake in the national oil company KazMunaiGas’s Exploration and Production arm (Kielmas, 2005, p.28; Hoyos, 2009; Embassy of the Kingdom of the Netherlands in Kazakhstan, 2013, p.2).

However, as with the Russian example above, this Chinese presence also creates opportunities for the EU. Indeed, fear over China’s continuing rise (in addition to Russia’s ongoing aspirations for regional leadership) increases the importance of the EU in the multi-vector foreign policies of Caspian (particularly Central Asian) states. Kazakh officials specifically highlight the threat posed by China’s rising influence in the country. Kazakh officials perceive Chinese business acquisitions as politically-motivated, noting that they are directed towards strategic assets that carry political influence. Kazakh officials fear that Chinese economic control in the country presents risks for Kazakhstan’s fledgling independence. Despite accepting Chinese loans (as described above), Prime Minister Massimov reported to US interlocutors that Kazakhstan never takes more than is necessary from China (US Department of State, 2009d). Indeed, fears of increasing Chinese influence in the Kazakh economy (especially in the energy sector) are widespread in Kazakhstan and appear to elicit more concern than corresponding Russian investments. For example, in May 2013 Kazakh media outlets carried stories highlighting unofficial reports that Chinese companies would soon own over 40% of Kazakh oil production (TengriNews, 2013). Knowledge of the extent of Chinese control is believed to be obscured.

\[251 \text{Ibid}\]
\[252 \text{Interview Kazakh government official [32], Astana, Summer 2012}\]
\[253 \text{Ibid}\]
through shadowy (and allegedly) corrupt business arrangements (TengriNews, 2013). One German government official jokingly remarked that while the EU member states and the EU as a whole felt themselves to be not ‘visible’ enough in Central Asia (and were thus actively trying to be more ‘noticeable’), the Chinese Government was trying to be more inconspicuous, lest its actions raise fears of Chinese domination. Furthermore, in a more economic sense, senior officials in Kazakhstan fear that Chinese energy interests in the country cannot be assumed to be durable. One risk for Kazakhstan, they averred, was the prospect of large-scale finds of shale oil in China that could reduce substantially China’s dependence on Kazakh energy resources.

Central Asian fears of over-dependence on the Russian and Chinese economies (and the negative influence this dependence entails) work in the EU’s interests. In light of Kazakhstan’s multi-vector foreign policy and desires for independence, concern over their relationships with Russia and China ensures an opening to Western powers and, in particular for discussion here, to the EU. This is especially the case given the relatively neutral and less threatening perception of the EU in the region (discussed further below). Indeed, EU officials note how the EU does not try to geo-politically induce or coerce Central Asian states, but rather exercises power in the region because it controls access to legitimacy and technology that Central Asian governments need (see discussion below). In relations with Caspian states, EU officials argue that the EU was often seen as behaving in a different way to other regional powers. Europe is seen (in certain sectors) as an example of how things ought to be done and Caspian governments do not want to lose access to this expertise. Another EU official suggested that EU power in the region derived from

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254 Interview German Government official [22], Summer 2012
255 Interview Kazakh government official [29], Astana, Summer 2012. The same is of course true to an extent with the EU.
256 Interview EU official [6], Brussels, Summer 2011 – even if this perception has been dented by the financial crisis
attractiveness rather than leverage *per se*, and added that this should not be underestimated in the long-term\(^{257}\).

As such, despite the so-called ‘new great game’ of regional competition in the Caspian, the EU does not so much actively *balance against* China or Russia as present the Kazakh government with an opportunity, or an *opening*, for the pursuit of their multi-vector foreign policies. The EU’s influence in the region is less based on the direct ability to project power, but rather the *opportunity-cost* to Kazakhstan of *not engaging* with the EU and European powers, i.e. continued over-reliance on Russia and China. This influence, born of regional competition and Kazakh desires for independence, in turn creates the opportunity for EU-level of diplomacy that can be employed, when necessary, to support the interests of the European energy industry or to push policies that reflect European interests in oil and gas. Crucially however, this is only possible in situations where European actors can act with a degree of unity.

*Asserting sovereignty and controlling rent: State-level risks and international companies in the Caspian*

The countries of the Caspian all present a number of risks for European companies. While some of the political risks inherent to the region were discussed in chapter four, this section explains some of the underlying factors that contribute to political risks in Kazakhstan – in particular Kazakhstan’s growing confidence, assertion of sovereignty and desire for greater control in energy. Indeed, sovereignty and the control of the main sources of rent-creating revenue are core, intertwined considerations for state elites and a major factor in both international political relations and interaction with major overseas oil companies (Ostrowski, 2011, p.12, Ipek, 2007, p.1184).

\(^{257}\) Interview EU official [23], Brussels, Summer 2012
The countries of the Caspian region emerged from the Soviet Union as newly formed, or re-formed, states in need of state-consolidation, keen to assert their sovereignty. Cummings and Hinnebusch (2011, p.1) argue that sovereignty is particularly precarious for states such as those of Central Asia that are "left behind by empire, with state builders struggling to establish internal sovereignty and defend against encroachment on their external sovereignty by great powers". At the time of independence in 1991, all of the Central Asian states, including Kazakhstan, faced similar pressures relating to the need for international independence, the consolidation of state structures, economic development and domestic legitimacy. Indeed in his most recent State of the Union speech, President Nazarbayev suggested that this process was now completed, discussing his country’s travails on their path to consolidated sovereignty and arguing that "21st Century Kazakhstan is an independent and self-confident state" (Nazarbayev, 2012). This trend towards an increased domestic assertion of sovereignty conflicts, at least to a degree, with the liberal model of energy governance discussed in chapter five that relies on a curtailed role for the state.

Indeed, the states in the region, while acutely aware of the geo-political dependence on regional powers (and Russia in particular) see their energy sectors as core sources of their domestic and international sovereignty and thus an area in which they seek to be independent258. At the same time, as Ostrowski (2011, p.12) argues, “whoever guarantees a steady flow of rent is also seen as a strategic partner and a best guarantor of a country’s sovereignty”. One EU official noted that Kazakhstan’s development over the last decade has been driven primarily by growth in the oil sector and, while the national Kazak oil company is becoming more influential (as described below), it is still the international majors that, as strategic partners, are providing the bulk of oil and gas payments to the finance ministry259. For example in 2011 the three major projects in Kazakhstan

258 Interview EU official [8], Brussels, Summer 2011
259 Interview EU official [27], Astana, Summer 2012
(TengizChevron, Karachaganak and Kashagan) paid over 13 billion dollars to the Kazakh Government—roughly 55% of all governmental energy revenues (EITI Secretariat, 2012)\textsuperscript{260}. For perspective, the total Kazakh state budget stood at roughly 34 billion dollars in 2011 (TengriNews, 2011). The global financial crisis, that hit the Kazakh economy hard after 2008 and required a government bank bail-out, emphasised to the Kazakh Government the importance of the oil sector for their stability and prosperity\textsuperscript{261}. European companies, as will be discussed below, play a very important role in the guarantee of a steady supply of rent for the government but are also deeply entwined in and affected (sometimes negatively) by the Kazakh government’s attempts to manage the internal and external aspects of its sovereignty and consolidate its domestic regime.

The politics of rent distribution in international oil projects in Kazakhstan has however been quite turbulent in recent years. From the perspective of the European energy industry and their investments, Kazakhstan appears to have become a less secure place over the last decade. The conditions companies received at the beginning of their involvement in Kazakhstan were certainly favourable, but recent renegotiations have resulted in amendments to contracts and increased shares for the Kazakh state (Domjan & Stone, 2010, p.38). This degree of increased assertiveness on the part of the Kazakh state is related, at least in part, to the desire for oil empowerment (i.e. greater control over national resources), the need for state consolidation, democratic legitimacy and a desire to spread the benefits of oil wealth more broadly, especially in Kazakhstan’s poorer and (relatively) more restive Western regions.

There is a perception amongst some officials that this desire for empowerment means that the situation for foreign investors has become more precarious in Kazakhstan. The country is far more self-confident and assertive today than in the past, officials suggest\textsuperscript{262}.

\textsuperscript{260} Own calculation from Kazakhstan EITI implementation report (EITI Secretariat, 2012)
\textsuperscript{261} Interview EU official [4], Brussels, Summer 2011
\textsuperscript{262} Interview EU official [31], Astana, Summer 2012
Formerly, the government was in a weak position and consequently offered very favourable conditions to companies. Now by contrast, several years on from the signing of contracts with international oil consortia, the government is accused of having engaged in the selective application of laws, forced contract changes and the discriminatory and coercive use of financial police and tax audits\textsuperscript{263}. It has been suggested that the hierarchical nature of police and audit bodies means that when audits are conducted officials must find some evidence of wrong doing or they could lose their jobs\textsuperscript{264}. Tax issues, officials argue, are incredibly difficult to counter as you cannot ask the government to stop collecting tax\textsuperscript{265}. While Kazakh laws provide for non-expropriation, and guarantees of legal stability and transparent government procurement, the US State Department notes that “inconsistent implementation of these laws and regulations at all levels of the government, combined with a tendency for courts to automatically accept government positions as correct, can create a significant obstacle to business in Kazakhstan” (US Department of State, 2012). Furthermore, officials in Kazakhstan stand accused of using regulatory pressure to extract bribes from foreign companies (US Department of State, 2012).

The Kazakh energy sector renegotiations in the latter half of the 2000s were certainly linked to the growing assertiveness of the Kazakh state. For example, the renegotiation of Karachaganak, which ceded a 10% share to the Kazakh government from the KPO consortium, was announced the day before the Kazakh day of national independence - a highly symbolic time that some feel was evidence of the political nature of the renegotiation\textsuperscript{266}. Some officials argue that in Kazakhstan, political expediency trumps legal sanctity, and that this situation is likely to continue\textsuperscript{267}. Some Kazakh officials also note a degree of political calculation behind renegotiation decisions, suggesting that they were

\textsuperscript{263} Interview EU official [27], Astana, Summer 2012
\textsuperscript{264} Ibid
\textsuperscript{265} Ibid
\textsuperscript{266} Interview EU official [31], Astana, Summer 2012
\textsuperscript{267} Ibid
indeed done with political considerations in mind, but at the same time also done for the betterment of future generations\textsuperscript{268}. Other Kazakh officials argued that no country in the world would have allowed the previous situation of favourable contracts to continue and suggested that the renegotiations were based on the impropriety of the international companies relating to tax and environmental violations\textsuperscript{269}. Kazakh officials suggest that most of the Western companies have accepted this situation and renegotiation has brought a number of benefits. It was noted that companies now have KMG as a partner, which means they are far less likely to have problems with the financial police, for example\textsuperscript{270}.

EU officials highlight a number of the perceived risks in the Kazakh energy sector for businesses and describe several contextual factors that provide a degree of instability and risk. Firstly, in line with discussions of neo-patrimonialism described in the first chapter, the Kazakh political systems exhibits a high-degree of informality, meaning that while there are given administrative structures within the state designed to deal with oil and gas matters, opaque informal political actions can often drive developments and this can in turn impact on the stability for companies\textsuperscript{271}. Indeed, while formally coordinated by the Ministry of Oil and Gas, in Kazakhstan, energy policy is strongly influenced by President Nazarbayev’s son in law Timur Kulibayev, the former head of the state-owned holding company Samruk Kazyna, current Chairman of KazMunayGas (KMG - the state-owned oil company) and Chairman of the influential KazEnergy group\textsuperscript{272}. Influential individuals in the Ministry of Oil and Gas and KMG are believed to be “his people” or members of his elite grouping, indicating that they answer to him. Kulibayev is consulted on all major energy decisions in Kazakhstan, even if it not him that actually takes these decisions\textsuperscript{273}. This is still

\textsuperscript{268} Interview Kazakh official [29], Astana, Summer 2012  
\textsuperscript{269} Interview Kazakh official [32], summer 2012  
\textsuperscript{270} Ibid  
\textsuperscript{271} Interview EU official [27], Astana, Summer 2012  
\textsuperscript{272} Interview former Kazakh Government Official [32], Astana 2012  
\textsuperscript{273} Ibid
the case despite his resignation from the board of Samruk Kazyna and replacement by Umizak Shukeyev following the shooting of a number of oil workers in the Western Kazakh town of Zhanozen in December 2011. Likewise, Prime Minister Karim Massimov is another very influential figure in Kazakh energy policy decisions. Formally part of Kulibayev's clique, the well-respected Massimov is thought now to occupy a more equal place with Kulibayev and to be able to exert influence through his role on the Board of Samruk Kazyna. One EU member state official remarked however, that ultimately, the President is the final arbiter on energy policy decisions. Indeed, as well as being close to both Kulibayev and Massimov, Nazarbayev is thought to maintain influence on energy via Chairman of KMG and former Oil and Gas Minister Mynbayev and former Deputy Prime Minister and current Chairman of Samruk Kazyna, Umirzak Shukeyev, who are both close to the President.

Some EU member state officials argue that many legal problems in Kazakhstan derive from the implementation of top-down hierarchical dictats and a failure to consult with industry. The Kazakh state is very hierarchical by European standards and problems often occur at the implementation stage on policies decided on by elites and enacted in Parliament without prior public consultation. One EU member state official averred that when the President gives an order, officials quickly react and try to enact the new policy as soon as possible. The little experience of consulting before legal changes are made means that investors can find that new legal changes negatively affecting their businesses are enacted in parliament and hastily implemented without any warning, presenting risks.

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274 Ibid
275 Interview EU member state official [30], Astana, Summer 2012
276 In discussions with US officials, former Vice-President of KazMunayGas Maksat Idenov described Massimov as having a degree of freedom but never acting without permission from “the hyphen” (i.e. Kulibayev) - US Department of State (2010a).
277 Interview former Kazakh Government Official [32], 2012
278 Ibid
279 Ibid
280 Ibid
Western companies, industry structure and EU-level cooperation in Kazakhstan

Given their size and importance in terms of oil development, and the importance of this development for the Kazakh state, Western oil companies also form part of the hedging strategy for the Kazakh government in line with their multi-vector foreign policy and alongside their interaction with the EU more broadly (see table two below for major Western investors in Kazakhstan). Indeed European companies in Kazakhstan are a core pillar of the European vector of Kazakh multi-vector foreign policy (Ipek, 2007, p.1184). Permitting Western companies to invest in Kazakhstan allows the government to both manage its dependence on Russian and Chinese companies (and thus on China and Russia), whilst at the same time increasing the stake of major Western/European states and the EU in developments in Kazakhstan.

<table>
<thead>
<tr>
<th>Foreign companies with investments in Kazakhstan's three largest projects</th>
<th>Home government</th>
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<tr>
<td>BG Group</td>
<td>UK</td>
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<td>Chevron</td>
<td>USA</td>
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<td>Eni</td>
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<td>Exxon Mobil</td>
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<td>Lukoil</td>
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<td>LukArco</td>
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<td>Shell</td>
<td>UK/The Netherlands</td>
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<td>Total</td>
<td>France</td>
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<td>Inpex</td>
<td>Japan</td>
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Table 2: Foreign companies involved in Kazakhstan's major energy projects. Source: Own elaboration

Kazakh officials note that decisions to involve foreign companies in Kazakhstan are highly strategic and that the international relations repercussions of these decisions were very
important. In Kazakhstan, President Nazarbayev is ultimately responsible for approving all of the major investment agreements with foreign companies and the international state-state dimension of these relationships plays a very important role in his considerations. The President of Kazakhstan has met in the last few years with President Sarkozy of France, Berlusconi of Italy, Chancellor Merkel of Germany and Prime Minister David Cameron (during the 2012 Olympics in London). One official suggested that these sorts of meetings affect energy and broader political relations considerably. It was noted that, if Presidents Sarkozy and Berlusconi are seen to be visiting Kazakhstan, one should not be surprised to find French and Italian companies operating in the country. Italy is thought of by some as the pre-eminent pillar of the European vector of Kazakhstan’s foreign policy (Cristiani, 2011). Italians are the biggest foreign investors in Kazakhstan and relations between Kazakh President Nazarbayev and former Italian President Berlusconi were particularly close. The majority of this Italian investment is in the hydrocarbon sector and the role of Eni (and a number of other Italian companies) in Kazakhstan is a particularly important part of this relationship.

In the early stages of the post-Cold War development of the Kazakh energy sector, the involvement of Western companies provided the government with the opportunity to develop its energy sector and gain access to revenues that could be used for regime consolidation, national development and the building of domestic legitimacy. Ipek (2007, p.1188) highlights that in these initial phases of the post-Cold War period, investments from European companies were specifically welcomed (in addition to those from the US) both because they were thought to be likely to bring with them TACIS investment from the EU and because European companies were less likely to be exposed to potential sanctions

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281 Interview Kazakh official [29], Astana, Summer 2012
282 Ibid
283 Ibid
284 Interview EU official [27], Astana, Summer 2012
285 Interview Kazakh Government Official [29], Astana Summer 2012
derived from using Iran as an export route (unlike US companies)\textsuperscript{286}. In addition to other factors relating to financing and technology (discussed separately below), one Kazakh government official argued that it was useful to have foreign investors in Kazakhstan from major Western countries as they were the only ones that could offset the growing influence of China\textsuperscript{287}. Furthermore, Kazak officials suggested that large Western companies were also less likely to take part in bribery. Officials note that it is (almost\textsuperscript{288}) impossible to demand bribes from larger companies. Smaller companies and non-Western companies may give into the pressure to bribe (or may be more inclined to in the first place and face no sanction from doing so), whereas larger companies face greater public scrutiny, specific anti-bribery measures at home and have the clout and the contacts to be able to say no. One official suggested that such companies have direct access to the President and can use this to offset pressures to offer bribes\textsuperscript{289}. This means that when the major international companies are involved, projects are likely to be awarded, at least to a greater degree, on the basis of merit rather than on the basis of the companies with the biggest (unofficial) pockets\textsuperscript{290}.

\textit{Consortium structures and EU cooperation}

The structure of the energy industry plays an important role in the Kazakh upstream, contributing to EU cooperation in the country. As the literature reviewed in chapter one suggested, EU member states are frequently thought to shape their political positions around commercial projects with negative consequences for European energy unity (see the discussion of the Southern Corridor projects for example). Indeed, EU officials remark how major companies have considerable influence on member state governments and

\textsuperscript{286} Incidentally, a number of European companies cite potential US responses to their various engagements with Iran as a source of risks in their company reports.
\textsuperscript{287} Interview Kazakh Government Official [32], Astana, Summer 2012
\textsuperscript{288} Almost is the operative word here given scandals relating to bribes from major companies. However it was suggested by officials that bribes were far more likely from smaller and non-Western companies.
\textsuperscript{289} Interview Kazakh Government Official [32], Astana, Summer 2012
\textsuperscript{290} Ibid
note how member states will often be swayed in their opinions by national companies (including instances of one member state reading out a national position from a company document in a Council meeting and another changing a publically-stated position after receiving input from a company)\textsuperscript{291}.

Yet despite this, in the upstream Kazakh context, the commercial level can at times spur rather than hinder cooperation between EU member states and facilitate the EU’s diplomatic action and subsequent leverage in the region. The form of commercial interaction in Caspian states is important here. In Kazakhstan the major oil developments are run by consortia of international companies with minority stakes held by the Kazakh national oil company KazMunaiGas (KMG). One of these projects, Tengizchevroil is composed of American and Russian companies and KMG. Chevron holds a 50% share, ExxonMobil 25%, KMG 20% and the Russian company LukArco controls 5% (TCO, 2013a). The other two major projects in Kazakhstan, Karachaganak and Kashagan, include high participation from European companies. The Karachaganak consortium (Karachaganak Petroleum Operating B.V. or KPO) is a joint-venture composed of BG Group (29.25%), Eni (29.25%), Chevron (18%), LUKOIL (13.5%) and KazMunaiGas (10%). The North Caspian Operating Company (NCOC) consortium that runs the Kashagan project is composed of Eni, Shell, Total, ExxonMobil and KazMunaiGas, (all 16.8%) ConocoPhillips (8.49%) and Inpex (7.56%) (KazMunaiGas, 2012).

The nature of consortia-based project development in Kazakhstan helps to drive cooperation between companies involved and fosters collaboration between member states. One member state official remarked how problems and issues in Kazakhstan rarely relate to one member state company and thus member states are able to coordinate on industry-wide issues\textsuperscript{292}. International consortia, they felt, tend bring the international

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\textsuperscript{291} Interview EU official [9], Brussels, Summer 2011
\textsuperscript{292} Interview EU member state official [30], Astana, Summer 2012.
community together\textsuperscript{293}. They argued that when issues or disputes with the Kazakh government arise, member states with companies in an affected project (and other international players such as the US) will at times coordinate collective responses\textsuperscript{294} (discussed further below). These problems are generally milieu-goal problems in character in that they affect the way that \textit{things are done} in Kazakhstan. They do not, by contrast, generally relate to possession goals in that they do not concern issues where one European member state will lose out to another. Rather changes or problems for one company will often affect the whole consortium, or have potentially industry wide implications, and thus tend to unite member states.

Furthermore, European member state engagement is not limited solely to instances when a national company is involved in a consortium. Sometimes European member states will concern themselves in a dispute related to a particular project even when they do not have a company directly involved (such as US-led Tengizchevroil) but where major national companies are involved \textit{in supplying goods or services to} the consortium. Sometimes these supply contracts can themselves be worth millions of dollars and adverse conditions for the major project can have negative impacts for hundreds of supply businesses in European states\textsuperscript{295}. Officials in Kazakhstan believe that similar circumstances are also likely to be found in Azerbaijan\textsuperscript{296}. These industry conditions can pull member states together to support their energy companies in Kazakhstan and provide impetus for the sort of unity needed for collective European commercial diplomatic support.

\textsuperscript{293} Ibid
\textsuperscript{294} Ibid
\textsuperscript{295} Ibid
\textsuperscript{296} Ibid. While beyond the scope of this chapter and thesis, investigation as to the extent to which these patterns are replicated across the European periphery in North and West Africa may yield interesting results.
Catalytic diplomacy: EU-company interaction and political support

The European Union operates a diplomatic support function for energy companies in two senses. Firstly, as described in the previous chapters, the EU engages in a proactive, preemptive sense seeking to shape a stable and reduced-risk Caspian milieu through the export and promotion of governance structures and through the conduct of energy diplomacy. Indeed, one EU official noted that part of the EU approach in the region was about managing relations in advance to ensure that political risks do not occur in the first place (an approach welcomed by companies – see previous chapter). However, in addition to this proactive role, the EU also provides a reactive ‘problem-solving’ political support role to companies when issues occur in the upstream.

One member state official noted that, in Kazakhstan, the EU Delegation is very good at organising and coordinating member state responses to problems that arise and suggested that this led to a stronger overall position for those member states involved\(^\text{297}\). The EU’s combined weight as a trading bloc is a particularly important factor when interacting with the Kazakh Government, they felt\(^\text{298}\). Indeed, as EU Ambassador to Kazakhstan Aurélia Bouchez has recently noted, the EU is Kazakhstan’s biggest source of foreign direct investment and imports, and the destination of the majority of Kazakhstan’s exports (2013). Likewise, one EU official highlighted that Kazakhstan exports roughly 75% of its oil to Europe, whilst accounting for only 3-5% of EU imports. While the lobbying efforts of one member state are taken into account by the Kazakh government, the combined weight of the EU is seen by member state officials to be more effective\(^\text{299}\).

Companies, the same official argued, have good access to and regular communication with European officials in Kazakhstan and, as mentioned above, officials recognise that the nature of the industry structure in Kazakhstan and the challenges that companies face

\(^{297}\) Interview EU member state official [30], Astana, Summer 2012

\(^{298}\) Ibid

\(^{299}\) Ibid
means that it is often preferable for EU member states and companies to coordinate together in response to issues, rather than to act separately\textsuperscript{300}. There is regular contact between EU delegation, member state and energy company officials both in Brussels and the EU delegations in the Caspian. Indeed, in Astana the EU delegation, most EU member state embassies and most European energy companies are all located in the same building. Likewise, EU officials working in Brussels, both in the EEAS and the Commission, are in regular contact with energy company officials\textsuperscript{301}. One company official in Brussels remarked how they prefer to meet with representatives from different DGs and the EEAS and that at times they try to bring different parts of the EU together\textsuperscript{302}. Generally, however cooperation between different parts of the EU on Caspian energy policy is thought to be good with topics such as tax problems and unfair treatment discussed in meetings.

In Kazakhstan, there are a number of different fora for meetings and coordination on energy matters. Firstly, local formal coordination working group meetings at the EU Delegation bring together energy and trade officials from member states and the delegation, and provide the opportunity to also invite Kazakh officials to explain policy changes\textsuperscript{303}. These meetings are a forum for discussing developments and formulating coordination actions when necessary. Likewise, there are informal energy lunches every six weeks, coordinated by some of the prominent member states, the EU delegation and the US Embassy\textsuperscript{304}. These bring together interested member and non-member states for informal discussions on energy matters, developments and necessary actions. US diplomatic cables record, for example, a lunch organised and hosted by the Hungarian ambassador Janos Balla on the 14th January 2010 to discuss Kazakh participation in the Nabucco project. A number of EU member state diplomats, including those from the UK, are reported to have attended (US Department of State, 2010d). The delegation in

\textsuperscript{300} Ibid
\textsuperscript{301} Interview EU official [14], Brussels, Summer 2012
\textsuperscript{302} Interview energy company official [34], Brussels, Autumn 2012
\textsuperscript{303} Interview EU official [27], Astana, Summer 2012
\textsuperscript{304} Interview EU member state official [30], Astana, Summer 2012
Kazakhstan also organises an EITI meeting group so as to formulate a coordinated message with member states, the EU and the EITI secretariat in Oslo. One official working in the Kazakh delegation noted that the cooperation between member states on energy matters was quite different in Kazakhstan when compared with similar interaction in Brussels. In Brussels, they felt, there was sometimes a feeling of member states being in competition with the Commission, whereas in the delegations it was rather member states and the Commission/EEAS together facing a common third-party interlocutor.

EU officials only intervene in energy matters in Kazakhstan however if they receive a specific request to do so from a company or member state and, as discussed previously, officials with experience of Kazakhstan note that the EU's role is only to support member states and companies diplomatically on issues that relate to overall energy governance frameworks. While companies often try to resolve issues themselves directly with the Kazakh government and do not like to escalate or over-politicise a matter unnecessarily, as described in the last chapter, the EU has a number of different diplomatic options ranging from off-the-record informal discussions to demarches and joint lobbying strategies that it can employ to provide political support to companies in the event of problems in Kazakhstan. In meetings with the Kazakh Government, EU officials stress that they avoid mentioning companies by name, rather focusing on the legal or political principles and issues at stake, seeking to present the need to resolve disputes to third parties. This fact further reinforces the tendency to try to deal with disputes in terms of principles rather than particular issues (as well as the political risk of exacerbating disputes between the Kazakh Government and companies). Officials do note however, that

305 Ibid
306 Ibid
307 Interview EU official [5], Brussels, Summer 2011.
this is difficult in certain projects where there are only a small number of companies, such as Kashagan.\footnote{Ibid}

One recent example of a unified European catalytic diplomacy and problem-solving action was in an EU response to Kazakh decisions to impose stricter local content requirements on foreign companies operating in the country. Local content rules compel foreign companies to “use local goods, works and services in their operations, as well as to increase proportion of local employees among their staff and their contractors’ staff” (Yerkebulanov, 2012). Indeed, one EU member state official referred to moves to increase local content as a desire to increase the ‘Kazakhstanisation’ of the oil industry.\footnote{Interview EU member state official [30], Astana, Summer 2012. Yerkebulanov (2012) offers a number of explanations for this situation in Kazakhstan. Firstly the amounts invested in goods, works and services by foreign companies is an estimated $8.4 billion in 2011 alone. At the same time however, the Kazakh media had been running stories for a number of years highlighting that most of this procurement was filtered back into companies from the same countries as the foreign investors where products were more expensive and where profits were then accumulated in the foreign country rather than Kazakhstan (Yerkebulanov, 2012). Secondly, there was also a perception that companies were undertaking such practices to inflate their expenses - expenses that they would later re-coup from the Kazakh government in the form of ‘cost-oil’ (Yerkebulanov, 2012).} Such issues are very politically sensitive in Kazakhstan given the country's development plans and increasing living standards, and the role that these play in stability and social harmony - particularly in the poorer west of the country away from the two major cities Astana and Almaty. Indeed, as the US State Department notes, “employers' reliance on foreign labor in the face of persistent poverty in rural Kazakhstan has become a political issue in recent years [sic]” (2012; International Crisis Group, 2007, p.30).

Kazakhstan enacted two laws that had a significant impact on local content in 2010 (The 2010 Law on Subsoil and Subsoil Use) and 2009 (Local Content Law) - both imposing local purchase requirements on foreign companies (US Department of State, 2012). In December 2010 the Kazakh Government adopted a special programme on local content that laid out mandatory targets of 90% Kazakh personnel at the technical level and 70% for executive level officials in the country (Yerkebulanov, 2012). Likewise, the government
expects 16% of goods and 85% of services to be Kazakh in origin (Yerkebulanov, 2012). The Local Content Law permits the government to revoke the licences of companies that do not meet local content requirements.

Laws on local content are thought to hinder the operations of companies due to unavailability of local staff and suppliers. EU officials suggest that local content requirements are normally not a problem for foreign investors but the sophistication of machinery and the skills needed means that it is difficult to source the level of products, services and workers in Kazakhstan\(^{310}\). In response to these changes, the EU delegation, a number of member states (Italy, UK and the Netherlands) and non-EU embassies (the US), developed a successful joint lobbying strategy with affected companies to achieve a three-year moratorium on the local content rules for the three major projects (Karachaganak, Tengiz and Kashagan).

**PRODUCTION AND CREDIT: RELIANCE ON WESTERN TECHNOLOGICAL AND PRODUCTIVE CAPACITY AND FINANCE**

This section sets out the contribution of European companies to the production and finance structures in the Kazakh oil sector. It details some of the production and financing difficulties in the Caspian and outlines the unique capability (at present) of Western companies to operate some of the major fields in the region. In doing so it documents the reliance of both the EU political actors and the Caspian governments on the operations of these companies.

*Production and finance in oil and gas*

The ability to decide what is produced, in what quantity, by whom, by what combination of “land, labour, capital and technology and how the relative parties should be rewarded is”, as Strange notes (1988, p.29), “as fundamental a question in political economy as who

\(^{310}\) Interview EU official [27], Astana, Summer 2012
decides the means of defence against insecurity”. In oil and gas, control over production is shared (predominantly) between state-owned companies that, along with oil ministries, control access to state-owned resources, and energy companies (mostly Western) that control access to the high-tech production capacity and know-how that makes oil and gas extraction possible – particularly in environmentally-fragile or geologically-challenging regions.

Likewise, the ability to provide finance in the form of credit is often decisive in the competition between both commercial companies and states and thus a major source of power in the global economy (Strange, 1988, p.30). In major high-capital intensive industries like energy, investments would sometimes not be possible if capital had to be accumulated in advance (Strange, 1988, p.30). The size of energy investments, as will be seen below, often requires access to credit on international markets with major international energy companies sometimes finding it easier to access these credit markets than some oil exporting countries311.

**Western companies and production in the Caspian**

Within Caspian countries, energy companies exert their greatest influence in terms of financial clout and technical productive capacity. The Caspian region presents particularly challenging conditions in terms of oil and gas production and these difficult conditions increase dependence on Western companies. The Kashagan field in Kazakh section of the Northern Caspian provides a good example. Containing 13 billion barrels of recoverable oil, numerous technical, safety and environmental risks are associated with the Kashagan project. Firstly, harsh north-Caspian winters mean that the sea around Kashagan is covered with thick surface ice for five months of the year, creating a major production challenge as ice floe movement presents serious risk to fixed production equipment (Demytrie, 2012). Secondly, the field itself is highly complex and geologically fragmented

311 *Ibid*
between different sites. Thirdly, the ‘associated gas’ in the project that is released along with the oil contains heavy concentrations of hydrogen sulphide ("sour gas") and is highly toxic. One breath of this gas would be enough to kill a human (Trefis, 2012). Fourthly, the oil is located deep under the sea floor (2.5 miles) but, somewhat paradoxically, the sea itself in this part of the Caspian is too shallow (at only four metres) to allow for ordinary deep-sea underwater technology to be used (Trefis, 2012; Demytrie, 2012). Finally the area is highly environmentally sensitive with a number of rare species native to the region (including Caspian seals and sturgeon). Being an enclosed inland body of water, the effects on an environmental disaster such as a major oil spill, would be very severe indeed and in all likelihood much worse than a spill in open water such as the Gulf of Mexico disaster (Demytrie, 2012). Other major oil and gas fields with similar, albeit not identical, challenges are present in Azerbaijan, Turkmenistan and elsewhere in Kazakhstan. The Tengiz field for example, also in the Kazakh northern Caspian, is one of the deepest super giant oil fields in the world (Tengizchevroil, 2013a).

Under these difficult production conditions, Caspian countries rely on the technical capacity of European and Western firms. One EU official argued that some fields such as the South Yolotan field in Turkmenistan are incredibly complicated and that national oil companies do not have the technical capacity to fully produce from these sites by themselves. One official cited de-sulphurication, drilling and gas-cleaning technologies as capacities that Caspian states need and currently lack. Another noted that Western technology plays a central role in the Caspian – they argued that without Western technology there would be no Shah Deniz (in Azerbaijan) and no Kashagan (in Kazakhstan). Indeed, one official noted that technological competence of companies was

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312 The location of the Caspian, with Iran and Russia as neighbouring littoral states would make the consequences of any such environmental disaster also highly politically sensitive and significant (Trefis, 2012).
313 Interview EU Official [6], Brussels, Summer 2011
314 Ibid
315 Interview, EU Official[5], Brussels, Summer 2011
one of the reasons why the EU did not need to actively discriminate in the promotion of European companies over others. Rather, provided competitions were held openly, European and Western companies would win contracts due to their technological superiority\textsuperscript{316}. The Kazakhs and Azeris, one EU official noted, could not get the required production know-how and technical capacity from other sources, such as Russia, and this they felt contributed to the need to have positive relations with the EU\textsuperscript{317}. Another EU official remarked that reliance on companies for drilling in deep water areas in Azerbaijan contributed to positive relations between the government and international energy majors there\textsuperscript{318}. In an example of public commercial diplomacy, Commissioner Piebalgs highlighted (and actively promoted) the technical production capacity of European energy businesses in 2007 at the Turkmenistan International Oil and Gas Conference in Ashgabat (hosted by the Turkmen Government) (EC, 2007). He noted that EU energy companies bring with them "highly advanced technical expertise and technologies" (Piebalgs, 2007). He went on to note further, "let me cite a few concrete areas: environmental and sulphur processing capabilities, gas flaring reduction measures and advanced hydrocarbon exploration. Our companies are also well known for working with country partners in the transfer of technological skills, appropriate training and the exchange of expertise" (Piebalgs, 2007). Incidentally, as was noted in the previous chapters, some companies specifically cite trips such as Piebalgs’s 2007 visit to Turkmenistan as important moments for EU-energy company cooperation. Likewise, EU Ambassador Bouchez in Kazakhstan recently remarked that European companies were “key for the development of Kazakhstan’s impressive oil and gas reserves” (Bouchez, 2013). One EU official noted that Chinese companies for example, struggle to match European companies on technical issues such as energy efficiency in oil production\textsuperscript{319}. The Kazakhs, they noted, have

\textsuperscript{316} Interview, EU Official [6], Brussels, Summer 2011
\textsuperscript{317} Interview EU Official [4], Brussels, Summer 2011
\textsuperscript{318} Interview EU Official [24], Brussels, Summer 2012
\textsuperscript{319} Interview EU Official [28], Astana, Summer 2012
improved their technology over recent years, but Caspian production is difficult and the government still needs Western companies\textsuperscript{320}.

Kazakh officials also recognise the technological contribution made by Western and European Companies. One Kazakh official spoken to remarked that there were major advantages in involving Western companies in off-shore production in the Caspian, arguing that they brought expert technology especially in health and safety standards\textsuperscript{321}. Furthermore, they noted that despite recent environmental disasters involving international majors (such as the BP Gulf of Mexico oil spill) the prospects for a similar event would be much higher with smaller companies\textsuperscript{322}. In turn, in the event of a major spill, the large Western companies can be called upon to pay for the clean-up and compensation. One official highlighted that in the event of such a disaster happening under a production model only involving the national oil company KazMunaiGas, it would be impossible for the Kazakh government to get any compensation or have anyone else to blame politically\textsuperscript{323}.

\textit{Finance}

European companies also have considerable financial weight in Kazakhstan. One EU official highlighted how three quarters of all foreign direct investment in Kazakhstan takes place in the energy sector with European companies holding major stakes in two of the three major energy projects (Kashagan and Karachaganak). These projects, one Kazakh Government official noted, are 50 - 60\% of all oil production in the country\textsuperscript{324}. European oil companies bring funding to Kazakhstan that is unavailable to the government. One Kazakh government official argued that the Kashagan project in the Kazakh part of the Caspian Sea (run by a consortium containing three major European companies) is

\textsuperscript{320} Ibid
\textsuperscript{321} Interview Kazakh Official [32], Astana, Summer 2012
\textsuperscript{322} Ibid
\textsuperscript{323} Ibid
\textsuperscript{324} Interview Former Kazakh Official [32], Astana, Summer 2012
estimated to cost upwards of 125 billion dollars to develop and that not many companies can (even collectively) spend that much money on one project. They added that while the Kazakh government has built up 80 billion dollars within the Kazakh Sovereign Wealth Fund (Samruk Kaznya) over the last few years, the whole fund would still not be enough to finance Kashagan. Furthermore, companies find it easier to raise credit on international markets than either the Kazakh government or the national oil company Kazmunaigaz (KMG). While KMG can finance smaller projects, the money for projects ultimately comes in large part from banks, and companies have easier access to these funds as they generally have better credit ratings. KMG has a credit rating of BBB whereas Royal Dutch Shell, for example, has a rating of AA/A. Following the taking of a greater stake in a number of major oil projects, one interlocutor argued that KMG was now finding it difficult to meet some of its financing liabilities to consortium partners (the credit risk companies mentioned in chapter four). In 2012 for example some members of the Kashagan consortium (Shell and Exxon) agreed to finance KMG's cash liabilities to the project in 2012/2013. While the government as a whole has the money to meet these commitments, it is reluctant to spend funds that are invested in the Sovereign Wealth Fund as this is seen by both government and the population in Kazakhstan to be for future generations, not current consumption. These funds, it was argued, are also seen to be needed for potential crises (as they were used by Kazakhstan in the financial crisis) and future development, rather than contemporary investment.

325 Ibid
326 Ibid
327 Incidentally, Coll (2012, p. 624) notes how in 2012 Exxon Mobil had a higher credit rating than the US Government.
328 Ibid
329 Ibid
This final section considers the last of Strange’s power structures - knowledge - and focuses on the EU’s ability to use the control over certain forms of knowledge to further its objectives in the Caspian. Knowledge, in the form of both the ability to control information as well as the broader ability to shape the dominant understandings (norms and rules) that pertain to the energy sector are potent sources of power in energy politics. This section outlines the various forms of knowledge power that the EU is able to employ in the Caspian to support the general interest of the commercial sector. Firstly, this section briefly outlines the contested normative context in the Caspian. Secondly, it discusses the EU’s capacity to shape (in part) what is considered legitimate practice in the region as well as companies’ role in Caspian state legitimation. The section then considers the EU’s ability to employ expert knowledge in the Caspian, and finally, outlines the importance of information and knowledge-sharing between European companies and the EU institutions on Caspian developments.

Knowledge in energy

Bartlett (1989, p.85) notes that situations of imperfect information imply a degree of power for actors who hold more information. In a broader sense however, the notion of knowledge is also tied up with concepts of legitimacy and the ability to define what is understood as acceptable or appropriate. This relates closely to discussions of ideological power, frequently considered in a positive sense under the label of “soft” (Nye, 2004) or “normative” power (Manners, 2002) and less benignly under the notion of “hegemony” (of a Gramscian form) (Robinson, 2005). In the context of energy, knowledge can thus refer to the localised application of information that forms part of power in specific structures (for example technical production know-how or expert legal knowledge, as below). However, in a broader sense the knowledge structure also refers to the ability to determine the
dominant concepts surrounding how the energy industry should be managed. These ideas themselves are in many cases linked to broader international economic and commercial norms (as discussed in chapter five). As mentioned in the discussion of liberal and proprietorial governance structures in chapter four, these broader aspects of the knowledge structure can be subject to much contestation and division.

The wider normative context in the Caspian

In addition to their material competition in the Caspian/Central Asia region, Russia, China, the US and the EU also compete ideationally in the region. Firstly, unlike the EU which is founded on the principle of shared or delimited sovereignty, Russia and China are more ‘souverainist’ in their approach to international affairs, perceiving the rules of global governance to be both created in the interests of Western countries and less important than power relations (Grant, 2011). Both Russia and China are strongly committed to non-interference (in both hard power and ‘softer’ economic areas) especially in strategic sectors such as energy. Both tend to oppose forms of supranationalism and prefer cooperation based on intergovernmental ‘concert diplomacy’ (Grant, 2011) rather than the multilateral, legally-based frameworks that the EU seeks to export. Given each party’s considerable interest in the area, these factors have implications for energy governance in the Caspian region. The EU’s contrasting objective of rules-based multilateral energy policy predicated as much as possible on the EU energy acquis and/or international norms does not always sit well with Russian and Chinese visions based more firmly on ad-hoc intergovernmental negotiation.

EU officials talk of selective adoption of Western norms by regional powers in the Caspian. EU officials note, for example, that they can be confident that oil supplies produced by

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330 This is power as the ability to shape intersubjective ideas and modify contrasting collective images of legitimate practice (Cox, 1986).

331 The Russian rejection in 2009 of the Energy Charter Treaty can, for example, be partially attributed to the perception that the ECT reflected the interests of Western countries rather than Russia (Konoplyanik, 2009, p.84).
international companies in the Caspian will be exported via and traded on world markets, but question at the same time whether Chinese companies can be relied on to do the same\textsuperscript{332}. While some would argue that it doesn’t matter if oil destined for China goes via international markets, (because if it does not China would just import less from those markets), a well-functioning international oil market is a core element of Western energy policy and any deviation from it is seen as a risk.

EU officials note that China’s growing influence in Central Asia may lead to an increase in Chinese influence over the way political relations are conducted in the region\textsuperscript{333}. The Chinese mode of direct state-state negotiations is well-received in Central Asia, for example, and mirrors Central Asian states’ preferred modes of interaction. However, EU officials suggest that it was Russia that had most to fear from this at the moment, as Russia is still, overall, the regional norm-setter\textsuperscript{334}.

One of the energy policy challenges of the post-Soviet Caspian region is that the normative context of energy governance is not yet fixed. The countries of the region, as described above, are developing and growing in confidence. As Caspian states move from one system to another the “rules of the game” change and in many cases these rules are not yet decided and remain unstable. EU officials argue that Caspian states have a different set of conceptual value references and ways of working from the EU, and while the export of EU values and norms to the region could be successful, this was likely to take time\textsuperscript{335}. Some of the core European concepts relating to energy production, such as the role of markets or property rights, are not necessarily fully-accepted in the Caspian region. EU officials note that such notions are relatively new for Central Asian states. In addition to the Soviet heritage where market concepts were alien, traditional hierarchical societal structures can

\textsuperscript{332} Interview EU official [9], Brussels, Summer 2011
\textsuperscript{333} Interview EU official [8], Brussels, Summer 2011
\textsuperscript{334} Ibid
\textsuperscript{335} Interview EU official [21], Brussels, Summer 2012
militate against leaving crucial economic functions to impersonal markets. One EU official noted that, for energy-rich states like Turkmenistan, it seems natural that all citizens should have free or cheap gas provided by the government. When EU officials suggest that energy is better left to the market, Caspian leaders tend to resist. Central Asian leaders, one EU official noted, are unlikely to engage with the EU unless you have a message that is legitimate for their societies.

Likewise, other rules over important issues in the context of energy such as property rights are also evolving in Caspian states with political power still playing a strong role in determining investors’ rights over property. In Kazakhstan, the possession of full property rights was granted by the civil courts only in 1994 and in certain respects Kazakhstan still has a restricted approach to the possession of and use of property. Core strategic sectors of the economy, as is the case in Russia today, are subject to state property laws that ensure the government first right of refusal on the sale of property in strategic sectors. The government is able to determine whether a particular asset is strategic or not. Furthermore, the strength of norms concerning property rights is still in flux amongst certain sections of the elite. Some parts of the Kazakh political class do not see rights over property as a fixed function of the rule of law but rather as a function of political power.

Indeed, arguably the only ultimate guarantor of property rights in Kazakhstan, as in the other Caspian states, is the political will of the President.

Legitimacy

The EU’s role in terms of contributing to what is seen as legitimate in the Caspian region is thus complex. In interviews, EU officials argue that the EU has a degree of influence in the Caspian because it controls access to legitimacy and has a role in shaping the rhetoric of
legitimate practice in energy. However, in addition to playing a role (often unsuccessfully) in shaping the dominant and legitimate norms in the Caspian, it can also be argued that the EU and energy company interaction with the Caspian states contributes to the public perception of the legitimacy of these governments themselves. One can think of this legitimacy-ascribing role in two senses. Firstly, in terms of the direct legitimacy that arises from interaction with the EU as an international partner, and secondly, the indirect impact on Caspian populations’ perceptions of governmental legitimacy that derives from companies’ (inadvertent) assisting of the Kazakh government in the provision of public functions within their states.

This question of legitimacy is of significant importance to Caspian governments. None of the Caspian states is a full electoral democracy and all rely on the maintenance of political stability, economic prosperity and the prestige attached to international relations to maintain support from their citizens. It should be noted that neither the EU nor energy companies deliberately seek to add to government legitimacy in Caspian states. It is, however, a largely inevitable consequence of their interaction.

However, despite the difficulties involved in doing so, the EU is able to shape, at least to some degree, the perceptions of legitimacy practice in energy – even if obtaining adherence to these norms is often difficult. Part of the EU’s strengths in this area derives from Caspian states’ desires for international recognition. Countries in the region are keen to be associated with the West as this helps with both domestic and international legitimation and the attraction of inwards investment. Azerbaijan, one EU official noted, seeks to be seen as part of the ‘European family’, while Kazakhstan demonstrates a strong attachment to the West.

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339 Interview EU official [6], Brussels, Summer 2011
340 Indeed, it is arguably the case that the EU derives more influence from its ability to ascribe domestic and international legitimacy to Caspian states (as seen instrumentally from the perspective of Caspian governments) than it does from the shaping of dominant norms in the region, where, at least in the Eastern part of the Caspian the EU competes in an normative sense with Russia, China and the Caspian states themselves.
341 Interview EU official [10], Brussels, Summer 2011
desire for international recognition. Indeed, the recent “Kazakhstan-2050” strategy announced by President Nazarbayev in December 2012 spoke to Kazakhstan’s aspiration to be seen as a “globally recognised country” (Nazarbayev, 2012). Indeed, even in relation to the conflicts with energy companies and Kazakhstan’s acquisition of a greater role in major energy projects discussed above, Kazakh officials are keen to stress that their actions were not nationalisations in the mould of international (energy) pariahs such as Venezuela and that original contracts remained in place, but with a greater role for KMG to reflect changed circumstances. An official from one EU member state noted that even in the process of renegotiations undertaken in Kazakhstan, the government was careful not to go as far as other states (such as Russia or, more recently, Argentina) as they didn’t want to lose international acceptance. While it is unclear whether the investment climate is now stable (Kazakh officials suggest it is while Western officials are less certain), Kazakhstan’s need and desire for international acceptance and recognition limits the degree of resource nationalism possible. Furthermore, questions of international prestige and regional competition between Caspian states also play into desires for recognition from the European Union. EU officials note that during the Soviet period leaders of Soviet republics would compete for bilateral relationships with Moscow and that one can see elements of these patterns in their current international relations with major powers.

However, EU officials do suggest that the quality of the relationship, and the strength of the EU’s normative influence, diminishes as one crosses from the western to the eastern side of the Caspian. While both Azerbaijan and Kazakhstan, for example, have clear publicly-stated intentions to be more integrated with Europe, officials argue that the EU

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342 Interview EU official [5], Brussels, Summer 2011
343 Interview former Kazak Government official [32], Summer 2012
344 Interview EU member state official [30], Summer 2012
345 Interview Kazak government official [32], Summer 2012; Interview EU official [31], Astana, Summer 2012
346 Interview EU Official [35], Brussels, Autumn, 2012
347 Interview, EU Official [5], Brussels, Summer 2011
has notably more influence with Azerbaijan. Azerbaijan, it has been suggested, looks for the EU stamp of approval in policy decisions and, as noted above, seeks to be part of the ‘European family’. Kazakhstan by contrast is more independent and, as described above, cuts a more balanced role between the major international players in the region.

Despite this, other EU officials noted that in a number of areas of governance reform areas such as internal energy infrastructure liberalisation, Kazakhstan has actually performed better than Azerbaijan. This suggests how, despite the greater influence that the EU has in Azerbaijan, the intrinsic domestic interests and context of states is also highly significant.

Undoubtedly - as described by Prange Gstöhl, (2009) (see chapter one) - questions of adherence to international practices in energy are caught up with Caspian states’ ongoing need and desire to attract investment. Policy frameworks such as the Energy Charter, the EITI and the WTO are important from the perspective of attracting inward FDI. Azerbaijan, one EU official noted, was especially keen on the EITI as it is a front runner in the organisation. EU officials note that companies will only invest under certain legal frameworks. As described in the previous chapters, the EU provides and promotes such frameworks, often based on long established principles of international law. EU officials argue, however, that legal frameworks also protect Caspian host countries. Countries do not set up their own international legal frameworks completely from scratch as there is concern that they could make mistakes that would make them out of kilter with the rest of the world. This could in turn both increase the risk of legal disputes and reduce

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348 Ibid
349 Ibid
350 Ibid
351 Interview EU Official [6], Brussels, Summer 2011
352 Ibid
investment. Rather, it is better, they suggested, to adopt internationally-based frameworks with more established protocols so that the risk is lower\textsuperscript{353}.

As mentioned earlier, the EU institutions also derive a degree of legitimacy from their perceived neutrality. Dealing with the EU, one official suggested, was a straight-forward business\textsuperscript{354}. Unlike Russia, China, or the US who link between different issues for leverage, the EU only negotiates on the issue in question\textsuperscript{355}. While the EU is undoubtedly more multi-voiced and plural than states such as China or Russia, and while this sometimes frustrates Caspian states, it is also less threatening and this is one of the reasons why engaging with the EU is attractive\textsuperscript{356}. The European Union, one EU official noted is seen as a reliable partner in the Caspian/Central Asia region\textsuperscript{357}. Another suggested that Caspian leaders saw the EU as an honest player\textsuperscript{358}. The EU institutions are in a relatively unique position in terms of energy policy in that they have no energy company (at least directly) and are not (again directly) involved in the capture of rents\textsuperscript{359}. However, while this may contribute to the creation of a more neutral perception that benefits the EU, it should be noted that the EU is nonetheless promoting and advising on legal frameworks that are premised on European norms or at least international norms amenable to the EU.

Additionally, companies also play an important role in terms of legitimacy in Caspian states as they (indirectly) facilitate Caspian states’ efforts to augment domestic legitimacy. In the case of Kazakhstan for example, the country is growing at roughly 6-7% per year and an important part of this growth comes from the Tengiz and Karachaganak projects.

\textsuperscript{353} Ibid – This does not mean that states will always abide by the provisions of these frameworks. Indeed, they will often try to merge them with their own more proprietorial governance practices.
\textsuperscript{354} Ibid
\textsuperscript{355} Ibid
\textsuperscript{356} Ibid – In essence the EU is an attractive source of dependence risk diversification for Caspian states.
\textsuperscript{357} Interview EU official [4], Brussels Summer 2011
\textsuperscript{358} Interview EU official [6], Brussels Summer 2011
\textsuperscript{359} Ibid
run by international consortia. Given that companies play an instrumental role in facilitating the development of these projects, they are consequently indirectly instrumental in ensuring a core component of governmental legitimacy in Kazakhstan.

**The EU’s use of expert knowledge in the Caspian upstream**

Other, more direct, examples of EU power based in the control of information derive from the EU’s ability to use its experience of and expertise in legal energy matters to its advantage. One official noted that the EU can act as an amicus during negotiations and disputes between states and between companies given its particular, more neutral, position and the fact that it was involved in the drafting of much international energy legislation, such as the ECT. Some legal questions in the energy field have never been subject to international litigation, and in these instances the EU is able to offer Caspian states a degree of (relatively) objective advice. EU officials, one interviewee suggested, were the only people who really understand how policies such as the Energy Charter should work in these instances because it was EU Commission officials that originally drafted them. This type of policy action is concurrent with the EU’s objective of promoting the general European interest in energy rather than the preferences of any particular company. It nonetheless reflects the possibility of using this informational advantage to support the general European commercial interest abroad—a core EU foreign energy policy objective.

Indeed, possessing such expertise provides the EU with an important source of knowledge power and presents the opportunity for influence-enhancing actions when advice is given. One energy expert spoken to was aware of instances when the EU had provided direct legal advice to some Caspian states in their negotiations with other regional powers—a

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360 Interview EU member state official [30], Summer 2012 – With future growth set to come also from Kashagan.
361 Interview EU Official [6], Brussels, Summer 2011
362 Ibid
363 Ibid
practice apparently very much appreciated by Caspian political leaders, giving the EU a great deal of influence\textsuperscript{364}. Other players, such as China, do not do such things, it was noted\textsuperscript{365}. EU officials observe that their advice is not always in the commercial energy sector’s short-term interests but that it is an important part of developing lasting partnerships in energy\textsuperscript{366}. Again this last point provides evidence of EU promotion of the European general interest discussed in the previous chapters. Some EU officials however argue that companies may not always see things in the same way and that it is at times a challenge to get them to consider their long rather than short-term interests\textsuperscript{367}.

\textit{EU-energy company information-sharing}

Information-sharing represents a core component of the EU public-private interaction in energy policy with companies and the EU institutions both relying on each other’s knowledge for information on upstream developments. EU officials interact formally and informally, and share information with the industry both directly through contact with individual firms and indirectly via industry associations\textsuperscript{368} (as discussed in the previous chapter). The EU is in a relatively unique position as it is one of the few actors able to speak to all major companies\textsuperscript{369}. Some member states will only consult with their national companies and form opinions on that basis. Likewise, EU officials note that there are things that member states and energy companies will not say to each other. The EU institutions by contrast, in the form of the EEAS and Commission, are the only actors that are able to talk to everyone and this gives officials a useful overall picture\textsuperscript{370}. One official noted, for example, how the EU receives information from all of the 71 companies involved in the various Southern Corridor projects. They did note as well, however, that while this

\begin{footnotesize}
\begin{enumerate}[\textsuperscript{364}]
\item Interview, Energy Expert, 2011
\item Ibid
\item Ibid
\item Interview EU official [6], Brussels, Summer 2011
\item Ibid; Interview EU official [21], Brussels, Summer 2012
\item Interview EU official [5], Brussels, Summer 2011
\item Interview EU official [6], Brussels, Summer 2011
\item Ibid
\end{enumerate}
\end{footnotesize}
degree of contact was beneficial for the EU, companies would also withhold information from them at times\textsuperscript{371}. Companies inform the EU, for example, on issues that arise relating to investment disputes, ‘doing business’ issues, government actions, rules on local content, restrictions on foreign personnel and future investment decisions etc.\textsuperscript{372}. Companies are also able to give broader political information relating to specific companies, state leaders etc. EU officials highlight that energy companies have very good contacts within Caspian governments and that they can provide useful information on domestic developments\textsuperscript{373}. EU and company officials both describe this sharing of information as reciprocal\textsuperscript{374}. The EU and energy companies do not have identical interests, it was suggested, but a mutually beneficial relationship exists between the two. One company official noted that they had ongoing operations in most of the strategic energy areas surrounding Europe and that this presented them with highly detailed knowledge that can be passed on to the EU\textsuperscript{375}. One official operating in the Caspian noted that the nature of information shared with the EU had changed over time. Before the EU had a stable presence in the region, companies, they felt, were very important sources of information for the EU. Now the EU has delegations in the region it relies on their information less and the relationship has consequently become one of sharing and comparing information\textsuperscript{376}. Officials note that it is difficult to always trust the information provided by companies however. Indeed, one EU official suggested that companies that always presented accurate information to the EU would likely be at a structural disadvantage \textit{vis-à-vis} other firms\textsuperscript{377}. As such, one had to sometimes be cautious about the information received. Another official

\textsuperscript{371} Ibid
\textsuperscript{372} Interview EU official [17 & 18], Brussels, Summer 2012
\textsuperscript{373} Interview EU official [27], Astana, Summer 2012
\textsuperscript{374} Interview EU official [26], Brussels, Summer 2012; Interview energy company official [34], Brussels, Autumn 2012
\textsuperscript{375} Interview energy company official [34], Brussels, Autumn 2012
\textsuperscript{376} Ibid
\textsuperscript{377} Interview EU official [6], Brussels, Summer 2012
noted that, when information is received by companies, delegations will consult with Brussels so as to decide whether or not to take action.\textsuperscript{370}

**CONCLUSION: THE EU AND THE EUROPEAN INDUSTRY IN THE CASPIAN UPSTREAM: NOT PERFECT ALIGNMENT, BUT REINFORCING ROLES**

This chapter has outlined the contours of the EU-company bargain in the Caspian region (and in Kazakhstan in particular) drawing attention to the roles that both sets of actors play in the region and relative resources they command. The first section drew attention to the (geo)political challenges. It highlighted how Kazakh fear of regional hegemons Russia and China provides an opportunity for European engagement in the country as part of Kazakhstan's multi-vector foreign policy. Following this, it highlighted how the presence of energy companies, the challenges they face and the consortia-based nature of the industry pull member states together and allows them to foster the unity necessary for common European action in line with the milieu-shaping and (commercial) diplomatic behaviour discussed previously.

The second section highlighted how both Caspian states and European actors are reliant on the productive capacity and finance of European firms. It was noted how European (and some other Western) companies have the financial clout and technology to deal with the Caspian region's various ecological and geological production challenges that other non-Western/European companies do not. One official put it simply by highlighting that without European companies there would be no production at some of the major fields in the region – a problem for Caspian leaderships of course, but also for an EU keen to diversify its supply base. Furthermore, as mentioned above, the presence of Western companies is preferable to the EU from a security of supply point of view as they are most efficient, most likely to invest and most likely to sell their products on international and regional markets.

\textsuperscript{378} Interview EU official [27], Astana, Summer 2012
Finally, the last section considered the knowledge-based aspects of energy politics in the region. In doing so, it examined the contested normative context in the Caspian and demonstrated how important normative questions, such as those surrounding property rights, are not yet fixed. It documented, however, how the EU was able to determine (to a degree) what constitutes legitimate practice in energy and ascribe legitimacy to Caspian actions, giving it some influence over their behaviour. It was also noted how the EU is able to use its expert knowledge to further European objectives in the region. All of these normative objectives, however, are concerned with the promotion of the liberal model of energy governance discussed in chapter five (even if they are not always in the interests of individual companies) and thus support the EU's broader structural risk mitigation role in the region.
CHAPTER EIGHT

CONCLUSION: EVALUATING EUROPEAN COOPERATION IN THE CASPIAN UPSTREAM

EU energy policy is a complex entity with varying objectives and fluctuating levels of cohesion in different areas. This thesis has investigated cooperation between European member states, EU institutions and commercial actors in one small, but nonetheless important, area of this energy policy - the Caspian upstream. Indeed, the observation of the relatively high degree of cooperation and interdependence between European actors on Caspian upstream policy, witnessed in the preceding chapters, challenges the generally discordant nature of EU external energy policy. This thesis has demonstrated that European actors cooperate well on some upstream energy matters, that European companies strategically engage with and seek support from the EU alongside their home governments, that EU member states often support and take part in this engagement and that commercial relations and political structural factors can spur member states to cooperate at the EU level on strategic energy affairs. Furthermore, in addition to empirical contributions, this thesis has developed a series of useful theoretical models to account for the EU's upstream policy and the broader politico-commercial cooperation between European actors in the Caspian upstream.

This concluding chapter presents the main research findings of this thesis. It starts by highlighting the theoretical contributions offered and then turns to the series of empirical arguments advanced. The chapter concludes with a short series of critical reflections on the research undertaken and a brief discussion of potential avenues for future research based on the findings here.
THEORETICAL CONTRIBUTIONS: TOWARDS A POLITICO-ECONOMIC THEORISATION OF EU UPSTREAM ENERGY COOPERATION

Chapters one and two identified how the literature and theoretical discussion of EU external energy policy tend to be characterised by discord and division. Many scholarly accounts of EU foreign energy policy have (albeit often implicitly) mirrored the wider theoretical discussions on the challenges of EU foreign policy coordination. Observations of a “logic of diversity” (Hill, 1998; Zielonka, 1998) in European member states’ energy policies and a “capability/consensus-expectations” gap (Hill, 1993; Toje, 2008) between the EU’s potential in energy policy and its often less impressive capacity for action are widespread in the EU external energy policy literature (although rarely expressed in these terms). Furthermore, like the wider energy politics literature, accounts of EU foreign energy policy tend to be characterised by division between realist/geo-political accounts and liberal market-based accounts of energy politics (Keating et al, 2012). However, such accounts do not adequately theorise areas of EU external energy cooperation and do not present models for evaluation of the EU’s overlapping security and market-promoting roles in energy.

In response, this thesis sought to explain and move beyond these divisions. Drawing on Wight’s (1987) discussion between realist, rationalist and revolutionist tendencies in international thought, it examined how each strand of the literature explains energy politics by focusing on and privileging one of the “coexisting and contradictory” market and security trends in energy policy identified by Claes (2009, p.40) and Helm respectively (2005, p.1-3). Indeed, as Helm (2005, p.14) notes, the market-based paradigm in energy policy is not obsolete but rather has been messily merged with more security-minded objectives. In focusing on one of these two broader trends, conceptual accounts of energy politics have rarely captured this merge of liberal commercial and security objectives and practices in energy policy.
This thesis offers an alternative politico-economic ontology that reduces the tensions between these traditions in international thought (as advocated by Wight, 1987), built, in particular, around the work of Strange (1988) and Cox (1986). Specifically, it accounts for: 1) investigation of the links between the political and the economic in energy; 2) a widening of the range of actors and sources of power under investigation; 3) an examination of the interplay of transnational, state and interstate spheres of analysis; and 4) the interaction between ideational and material factors in energy affairs. Crucial to this approach was a view that puts power at the heart of the analysis, but that does not assume which actors hold power or what form that power takes. As Cox (1996, p.183) describes, this is essentially a form of realism (in that there is a strong focus on power), but it is a realism where the objective is "the search for the effective entities in politics, whatever they may turn out to be".

*Models for analysing energy cooperation and interaction*

On the back of this framework, an interdisciplinary, eclectic mix of heuristic politico-economic concepts was presented in chapter two to help explain the different empirical dimensions of the research undertaken here. The amalgamation of these concepts and their application to the context of EU energy policy is original and offers a new set of theoretical models for the analysis of EU upstream energy policy.

Three such models were advanced. The first, based on the diversity of politico-economic structures between Europe and the Caspian, sought to conceptualise the challenges of the regional operating context for the EU. It highlighted the interdependence of states across Eurasia, especially in the energy sphere, but noted the heterogeneity of political and economic structures across that geographical space. Furthermore, it drew attention to how energy independence and flows of revenue from Europe to the Caspian have the effect of exacerbating these structural differences over time (due to the effects of the resource curse and resource nationalism). Furthermore, the notion of territorial non-
coincidence (Murray, 1971) was introduced to highlight how this broader diversity also manifests as a disjuncture between a transnational economic sphere on which all players rely and the different regulatory structures in each state that can produce risks for commercial actors. Territorial non-coincidence is particularly acute in energy given that the interdependence is greater and the politico-economic stakes higher than in other sectors. These concepts together – interdependence, heterogeneity and territorial non-coincidence - help conceptualise the structural challenges seen in the Caspian region and the structural factors that EU’s milieu-shaping efforts are reacting to.

Second, “milieu-shaping” (Hyde-Price, 2008; Wolfers, 1962; Smith, 2004) and “structural foreign policy” (Keukeleire, 2003) were introduced to help conceptualise the overlap between the EU’s market-facilitating and security role in the Caspian region. Hyde-Price (2008) argues that EU member states seek to utilise the EU to promote a regional milieu in keeping with their security and economic objectives. It was noted that the EU can be spurred into this kind of action by changes in the structural conditions around Europe (Hill, 1998, p38-9). Indeed, as was argued in chapter six, in the face of a difficult international environment and the decline of the US role in the former Soviet Union, EU member states see the EU as offering a rational way to collectively have more influence in the Caspian. However, these factors account only broadly for what the EU does and why. To understand the EU’s specific objectives in the Caspian upstream, the realist notion of milieu-shaping as a response to structural factors was combined with neo-marxist notions of “making the world safe for capital”, in particular the notion of "state economic functions" (Murray, 1971; Smith 2004; Junne, 1994). These functions include, above all, the mitigation of political risk and market facilitation (Smith, 2004). Smith (2004, p.79-80) discusses how these functions can be performed by international bodies such as the EU and how international actors can gain a great deal of prestige and legitimacy from the provision of these functions. The EU’s role in the provision of these risk-reducing functions was correspondingly a major research focus of this thesis.
Thirdly, to conceptualise the actual cooperation between European actors in practice, this thesis employed the notions of an implicit “market-authority bargain” (Strange, 1988; Goel, 2004), "structures of power“ (Strange, 1988), "resource dependency“ (Eising, 2009) and “catalytic diplomacy“ (Hocking, 2004a; 2004b). Strange’s (1988) four structures were used to break-down the operating context and challenges for European actors in the Caspian and then to consider the relative responses made to these challenges by European actors. Resource dependency and catalytic diplomacy in turn were employed to capture how actors are mutually reliant on each other for the supply of certain resources in their collective diplomacy in the upstream.

However, these models are by no means limited to investigation of intra-EU cooperation, the Caspian region or energy policy. Indeed, they are readily transferable and could be applied to numerous areas of international political economy both inside European foreign policy studies and within the wider field of IPE.

**EMPIRICAL CONTRIBUTIONS: RISK MITIGATION, MILIEU-SHAPING AND EUROPEAN POLITICO-COMMERCIAL INTERACTION IN THE CASPIAN UPSTREAM**

Overall, this thesis makes an important empirical contribution to knowledge in a number of areas, notably: 1) the relationship between political risk and the EU's upstream milieu-shaping role and objectives; 2) the relatively high level of overlap between commercial and political objectives and perspectives of Caspian energy policy; 3) the overlap of (and some of the tensions between) EU energy and commercial diplomacy; and 4) the structural upstream interdependence between European political and commercial actors in the Caspian. Each of these areas is discussed in turn below.
The EU upstream role: Risk mitigation, market facilitation and state economic functions

This research has presented a comprehensive analysis of the EU’s upstream energy role and its relationship with political risk. Chapter four explained the external risk-inducing dependencies that shape broader EU strategic objectives in energy (on sources, routes and counterparties respectively). The most important of these, from the perspective of this thesis, is the EU’s rarely-discussed dependence on the commercial energy sector. The EU model of energy supply relies heavily on (an often small number of) Western companies for the necessary investment and physical delivery of oil and gas resources from foreign markets. Indeed, chapter six highlighted company efforts in public consultations to play on this link and present themselves as crucial parts of the EU’s energy security supply.

As chapter four argued, actors can seek to respond to such dependency risks by both diversifying the number of actors on whom they rely and by taking preventive action to avoid the likelihood of risk events occurring in the first place. However, in terms of European dependence on companies, diversification is difficult for three main reasons. Firstly, there are only a small number of companies responsible for and capable of managing major projects. Secondly, producer countries, as described in chapter seven, can be very selective with regard to whom they will allow to invest in the extraction of their resources. As such, diversification is somewhat limited as a policy objective and the EU is compelled to focus on preventing risks before they happen as well as being able to react to them when they occur.

Indeed, echoing the theoretical intersection of realist and neo-marxist notions of milieu-shaping discussed above, chapter four demonstrated how the EU’s reliance on energy companies in the upstream creates a strong overlap between the EU’s energy security objectives and some of the non-commercial, political risks to companies. Consequently, chapter four argued that playing a structural role in shaping the regional milieu so as to
mitigate political risks and facilitate markets was one of the EU’s most significant upstream strategic energy priorities in the Caspian region. Correspondingly, EU measures employed to mitigate these risks in practice were discussed. It was shown that two measures in particular (energy governance and energy diplomacy) were of particular significance in the EU’s structural milieu-shaping foreign policy. In terms of governance, the EU seeks to mitigate risk by bringing third party states’ energy governance systems in line with European (risk-reducing) requirements. EU energy diplomacy, by contrast, is used to support the EU’s governance objectives, increase dialogue so as to avoid risks and, lastly, to react to risks when they occur.

Having discussed the broader EU upstream role and convergence on upstream risk, the thesis turned attention to the EU’s specific upstream objectives in the Caspian region. Chapter five highlighted the difference between liberal and proprietorial models of governance and their implications for state-economic functions and risk, arguing that the EU pursues a set of liberal risk-reducing objectives in its energy governance. Subsequently, chapter five demonstrated the mix of different European and international institutions and norms that the EU promotes in upstream energy in the Caspian region. Particularly, it showed how the EU pursues an energy ‘governance complex’ of different institutional structures in the Caspian comprising both EU-administered (for example, Baku Initiative) and international governance structures (for example, the EITI and WTO). Furthermore, this chapter drew attention to the five norms of EU upstream energy policy (investment protection/promotion, competition, safety, regulatory harmonisation, transparency and multilateralism/regionalism) noting their liberal character and illustrating how they promote upstream state-economic functions in the Caspian - supporting at a governance level the EU’s market facilitation and mitigation of political risk.
Overlapping perspectives on upstream energy policy

This thesis has also further contributed to knowledge on EU upstream energy policy by demonstrating the overlap (and tensions) between commercial and political perspectives on upstream energy policy. This analysis was commenced in chapter four which illustrated the extent of EU actor perception convergence on the major risks in energy policy. It found that while there were differences of opinion between companies, member states and EU institutions, there was a high degree of convergence around matters of upstream political risk and market access/investment risk. While this shared risk perception does not guarantee EU policy convergence, chapter four argued that it represents a necessary condition for and a core part of EU upstream energy policy cooperation in the Caspian.

Chapter five moved from analysis of risk perception to policy perspectives, and in doing so further established the level of European convergence on Caspian upstream policy. Specifically, chapter five examined the perspectives of member states and energy companies on the norms of energy governance in the Caspian. Mixed patterns of convergence were observed. While all three sets of actors demonstrated very similar perspectives on investment protection, opinions on transparency, competition, regulatory harmonisation and regionalism/multilateralism presented a more mixed picture with broad (if not perfect) convergence on international frameworks, but lower levels of convergence on EU structures. While the EU’s reliance on international frameworks in the Caspian means that, ultimately, a relatively high degree of convergence can be observed across the EU’s upstream governance, chapter five further illustrated how matters of political risk mitigation and business facilitation provide the fundamental core of convergence between member state, Commission/EEAS and company objectives.

Finally, further reinforcing support for an EU role in Caspian upstream energy, chapter six examined company and member states’ perspectives on the supranationalisation of commercial energy diplomacy. Bucking the trends of division in EU energy policy seen in
the wider literature, it found that member states and companies support both a strong role for the EU in energy diplomacy and close interaction between the EU institutions and the commercial sector. Member states and companies see the EU as a potential source of additional influence in politically contested regions such as the Caspian - especially given changing structural conditions such as increased Russian and Chinese power, the augmented assertiveness of energy-rich producers and the declining influence of the USA. Member states also consider the EU to provide a more ‘neutral’ cover for the promotion of energy interests and provision of support when member states want to deliver a politically-difficult message or when political disputes between governments hinder the prospects of effective member state commercial energy diplomacy. Likewise, just as the EU seeks to reduce its dependence on the commercial sector (described above), companies seek to diversify the actors that can offer them political support. As such, companies also welcome a strong commercial diplomacy role for the EU, which provides them with an alternative source of backing when member states are unwilling or unable to help them.

**Energy and commercial diplomacy**

Building on discussion of the intersection between company and EU energy interests in chapter four, chapter six also demonstrated the overlap between the EU’s commercial diplomacy (traditionally the responsibility of the Commission) and energy diplomacy (largely the responsibility of the EEAS). While the division of the EU’s diplomacy between the EEAS and the Commission presents the potential for tension it was noted how, in practice, personal relations between officials (who in some cases are former Commission colleagues) are able to manage intra-institutional relations and how the divisions between the Commission and the EEAS (and between the EU institutions and member states) are far less acute in delegations than in Brussels. Chapter six also described the various fora that the EU uses for proactive energy diplomacy and highlighted some of the measures
that the EU employs in Kazakhstan when reacting to emergent risks in the region (such as joint-EU *demarches* and joint-EU meetings with Kazakh officials).

Furthermore, some of the tensions between the EU's general structural role and specific company objectives were discussed. Overall, chapter six explained how companies both seek to strike a balance between involving the EU as a political counterweight to producer governments and the preservation of their business autonomy. However, chapter six also examined EU officials' perceptions of their own upstream political support role in the Caspian. Indeed, it was demonstrated that EU officials seek to maintain a clear line between commerce and policy and do not desire to be involved in business decisions. Rather, they see their role as providing support in the *general interest* of the European upstream industry as a whole, rather than to pursue the particular specific interests of individual companies. Such a view concurs with the discussion of the EU's structural energy role above.

*Structural conditions, interdependence and catalytic diplomacy*

This thesis also documented the mutual dependence between EU political and commercial actors in the upstream and in so doing offered contributions to discussions of EU catalytic and multi-stakeholder diplomacy. Chapter seven employed Strange's (1988) typology of politico-security, production, financial and knowledge-based power to analyse the structural operating challenges in the Caspian and the resource-interdependent responses of various European actors. It was explained how, in the political context, the involvement of regional powers (Russia and China) and Caspian states' own desires for independence and autonomy present both challenges and opportunities for European actors. This section likewise highlighted how the industry structure in Kazakhstan can contribute to European political cooperation, and detailed the various forms of interaction and policy measures open to European officials for coordination and commercial energy diplomacy. Investigation of the production and financial aspects of EU-company interaction drew
attention, by contrast, to the major technical and financial production challenges that the Caspian region presents. These challenges mean that European dependence on companies is high here because the EU does not only rely on companies for investment and efficiency, but in this case, the energy (the majority of which comes to Europe) would not be produced at all without the involvement of Western companies. Finally, completing the analysis of the interaction and resource dependence between European actors in the Caspian, chapter seven considered the EU’s knowledge-based resources. It re-highlighted how the EU is seen as more ‘neutral’ than other actors, firstly because it is less threatening, and secondly because it is not considered to be tied to the particular interests of any given company. These factors help the EU in the influence it derives from the provision of expert knowledge and its ability to ascribe a certain degree of legitimacy in the region. Indeed, Caspian states’ relatively recent exposure to energy production means they sometimes rely on the EU for information and, even when engaging in actions that run counter to European interests, Caspian states are still very concerned by their international image. Nonetheless, while the EU may be one stage removed from energy companies, the information it provides and the policies that it promotes do not run counter to the long-term structural interests of the European energy industry, even if they might not support the individual actions of specific energy companies in a given instance. Finally and further highlighting the mutual reliance of European actors in the Caspian, chapter seven illustrated the knowledge-sharing that exists between European political and commercial players and explained the importance of this information-sharing in terms of European upstream politico-commercial energy interdependence.

Having outlined the various research contributions offered in this thesis, this chapter concludes with a brief discussion of some critical reflections on the research done, followed by a short section on potential areas for future research that build on the findings advanced above.
CRITICAL REFLECTIONS

This penultimate section offers a series of critical reflections on some of the major themes and challenges that have emerged from this thesis. In particular, it focuses on the concepts of cooperation and power, the linkages between different core scholars (Strange, Cox and Murray in particular), the related linkages between the three heuristic theoretical models offered and, finally, the challenges posed by empirical and theoretical complexity in this study.

Reflecting on cooperation and power

As noted in the introduction, this thesis sought to examine cooperation, involving the active coordination and interaction between European political and commercial energy actors (Keohane, 1984, p.51). A challenge inherent to this study has been the conceptualisation and empirical investigation of cooperation that is in many cases informal and ad hoc. Indeed, the thesis sees a complex mixture of different forms of cooperation. Some opportunities for intra-European engagement and cooperation such as consultations or meetings in the Council are formal and institutionalised. Others are less so, such as the informal, but regular, energy lunches organised by the EU delegation in Astana that bring together officials from member states (described in chapter six and seven). Other forms of cooperation, such as joint lobbying by EU member state ambassadors in Astana or meetings between companies and Commission/EEAS officials in Brussels, are quite ad-hoc and irregular. One of the benefits of this study has been to document these latter types of interaction which are rarely referred to in official documents or literature. Indeed, this demonstrates the importance and benefit of interviews in this area of research (especially those conducted in third-party upstream states where much of this cooperation and associated coordination actually takes place). Conceptually speaking, as this thesis has demonstrated, network-based models prove useful in being able to conceptualise the resource-interdependent relationships that lie
behind these forms of interaction. However, as highlighted in the section below, conducting this form of network-based analysis presents some research difficulties in terms of time, cost and the challenge of gaining access to the respective networks. It is also, reflecting one of the broader drawbacks of the methodology adopted here, only able to describe with certainty the interactions of the specific networks investigated, rather than offer wider, generalizable, research findings (although, as discussed in chapter two, theoretical explanations derived from this research may well be transferable).

Likewise, of significant importance to the arguments in this thesis is the concept of power. The thesis employs a focus on power derived from Strange’s (1988) conceptualisation of ‘structural power’ as a means of theorising the different forms of power inherent to energy politics. Strange’s model, also employed by Goel (2004) in the context of energy, is important as it draws attention to the different forms of power that actors need to bring to a specific politico-economic ‘bargain’ and it provides a framework for analysing the ways different forms of power, provided by different types of actors, interact. Such an approach was essential given the pluralist view of actors and the political-economic approach adopted here. However, as the research advanced it became evident that this approach could be advanced further by combining it with a resource-based, networked understanding of actor interaction (Hocking, 2004b, p.151). Adopting such an approach, as the final chapter does, allows one to conceive of the structural environment requiring certain forms of power and networks of catalytic diplomatic actors providing different resources that meet these structural requirements. In this case, power comes both from what actors can provide (member state and EEAS/Commission officials can offer diplomatic services, for example), but also from what actors can withhold (information, finance, cooperation etc.). In this latter sense however, the power derived from control over resources is only significant if one has a monopoly on that source of power. If other actors can get the resource from elsewhere, the power of the first actor is significantly reduced (companies have leverage in Kazakhstan, for example, because they collectively
have a monopoly on the technology necessary to access the most difficult fields). However, because actors are keen not to rely overall on only one or two actors, offering opportunities for the diversification of dependence risk is also, in and of itself, a form of power (just as the EU, for example, presents opportunities for Astana *not to be* too dependent on Russia and China).

The investigations of both power and cooperation have thus both benefited from network-based analysis in this thesis. However, taking such an approach also draws attention to one of the methodological difficulties of this kind of research. It is not really possible to fully study these networks without engaging with them (at least to some extent) oneself. To get access to the details of these networks one has to talk to the people in and around them. Doing so in some cases however, given the sensitivity of the subject matter, can prove challenging and costly both in terms of time and money, as well as demanding in terms of interpersonal skills.

**Linking models and scholars**

Another area for reflection is the way in which the core scholars, and the models based on their work offered in chapter two, are related to one another. This thesis presented three models in the theoretical chapter that are intrinsically linked to one another – both in terms of their design and in terms of the scholars on whose work they are based. The first model, resting primarily on Murray's (1978) notion of territorial non-coincidence, is a conceptualisation of the structural problem facing European actors. In effect it considers the challenge of ensuring a low political risk environment in a region where the very process of energy production and trade can serve to heighten this risk. In the face of such a structural challenge, the network based model of catalytic diplomacy conceptualises European actors’ multi-stakeholder efforts to deal with this structural environment (Hocking, 2004b, p.151). A third model, focused on the EU’s milieu-shaping/structural foreign policy and the promotion of state economic functions (Hyde-Price, 2008;
Keukeleire, 2003; Smith, 2004; Murray, 1971), in turn relates to the EU institutions’ (EEAS and Commission) primary resource contribution to this catalytic diplomacy.

The theoretical frameworks in this thesis benefit from a certain commonality between three core scholars - Strange, Cox and Murray - whose work underpins the theorisation offered in chapter two. All three of these scholars can be located toward the ‘critical’ end of the theoretical spectrum in International Political Economy and their ideas lend themselves well to the analysis of intersections of political and economic power, and thus support the eclectic interdisciplinary effort conducted here. Cox and Murray offer accounts that are historical materialist/structural neo-marxist but with a very strong sensitivity to the actions of political actors. One can see this in Murray’s focus on the importance of state economic functions and Cox’s focus on the complex intersection of the transnational economic, interstate and state systems (and the fact that each impacts on the other – see chapter two). Strange, a leading light in the early development of International Political Economy as a field of study, was by contrast a realist, but as highlighted in chapter two, a realist whose focus was on power whatever form it may take and wherever it may lie (including economic power) and a realist who explicitly sought to conceptualise the interactions of market-based actors and political authorities by putting them on a broadly level footing (at least in terms of analysis). The models advanced in this thesis fit together and are internally consistent because they are based, in part, on the work of a series of highly intellectually compatible and complimentary scholars (and because they are consistent with the philosophical and scientific ontological frameworks outlined in chapter two and annex one).

In terms of research contribution, the added value of the interaction between these models is that they focus on the interplay of both the structural and agency-based factors relevant to this thesis. In this sense, this framework offers a structurationist view that seeks to incorporate both structure and agency in analysis (Marsh, 2010, p.216). One of
the challenges inherent to a study such as this, is thus how to analyse the impact of the structural environment (comprising multiple actors - Russia, China, Kazakhstan, and other challenges - geological, financial etc.), and the responses of agents (EU institutions, member states and energy companies in this study) to this environment. These models, compatible because of their shared ontologies, allow for examination of the structural Caspian environment (political risk, non-coincidence, great power involvement etc.) and the corresponding European response (catalytic diplomacy, milieu-shaping etc.). The collective European response to this structural challenge has been to develop and employ catalytic diplomatic cooperation and interaction. The focus on catalytic diplomacy facilitates investigation of the resource and ideational links within this network and the way that different actors’ resource contributions allow them to (collectively) mitigate the challenges of the wider Caspian structural environment. The focus on milieu-shaping and structural foreign policy, in turn draws attention to the resources that the EU institutions have at their disposal both within this proximate network structure and in the Caspian more broadly. The resources of different European actors are indeed both contributions to the catalytic diplomatic network of European actors itself and, simultaneously, also important contributions to the wider structural environment in the Caspian.

**Complexity**

Finally, this thesis is a study in complexity and the challenges of complexity in at least three senses: policy, research methods and theory. Energy policy is well known as a complex or ‘wicked’ policy area (Chester, 2009). The inherent complexity of this topic matter, the number of actors, their geographical spread, the different forms of power they can employ and their different and competing interests makes both the devising of policy and the study of this policy a challenge. Indeed, the complexity inherent to this project raises several research challenges both in terms of the research methodology/methods and the analytical frameworks needed to study this area.
Adopting a critical realist philosophical approach was instrumental in dealing with this complexity methodologically and theoretically. The judgemental rationalist dimension of critical realism (discussed in chapter two and annex one) encourages one to critically reflect on the multiple methods by which one can study a given instance of reality and the corresponding importance of triangulating between different sources information. The traineeship at the EEAS in Brussels helped immeasurably with finding different ways to investigate the research matter. For example, through colleagues, the traineeship exposed me to the right networks of policy actors and to other useful public sources, such as the 2011 public consultation which was being worked on by a fellow trainee at the time. Likewise, the experience of being immersed in that policy environment for an extended period of time helped me intellectually to get to grips with the complexity of the policy area, with people on hand who could help explain the multi-faceted dimensions of the topic.

Critical realism was also fundamentally important in terms of the capacity of the analytical frameworks to conceptually manage this empirical complexity. The critical realist framework adopted, based on abductive reasoning and with a broad view of causality, enables one to combine different theoretical approaches and frameworks with attendant benefits in terms of capturing conceptually complex policy areas. In this sense it allows a version of (and the benefits of) the analytical eclecticism described in chapter two, but with attention to the risk of incommensurability. Indeed, this form of theorising enables one to draw on different concepts simultaneously, employing them together, incorporating different parts of the multi-dimensional picture of EU upstream energy policy and thus to develop potentially transferable theoretical models that can manage the inherent complexity of the topic matter in question. As described in the theory and methods chapters, the cost of this approach is reduced parsimony and the fact that the research models cannot be generalized (although they can be transferred). However, what is lost in parsimony and generalisability is made up for in the ability to capture the rich and
multifaceted politico-economic, market-authority, material-ideational, transnational-interstate and post-Soviet-EU dimensions of what is an empirically complex and multi-layered area of study.

**AVENUES FOR FUTURE RESEARCH**

The investigation conducted in this thesis opens up a number of areas for further study. Indeed, further exploration of the research outlined in this thesis would allow for examination of the transferability of the models employed (and the relevance of the findings highlighted above), both to other instances of European external energy interaction, and to similar cases of politico-commercial engagement outside of energy sector. In particular three avenues of future research engagement are suggested in this final section: 1) EU upstream energy policy in other energy-rich regions; 2) analysis of EU upstream energy policy successes/failures (in the Caspian and elsewhere); and 3) EU political risk mitigation and catalytic diplomacy outside of energy policy.

Firstly, having examined cooperation in the Caspian upstream, a clear area of further research would be comparative analysis of EU cooperation in other energy-rich regions. A number of regions in the EU periphery present themselves for comparison, including in particular North and West Africa and the Gulf region\(^379\). Such investigation could adopt a comparative foreign policy perspective seeking to compare the milieu-shaping activities of the EU across these regions. Furthermore, this analysis could, as this thesis has done, investigate the challenges of the structural context and the corresponding level of EU, member state and energy company catalytic diplomacy in these regions.

A second area for potential further research could be investigation of EU upstream energy successes and failings both in the Caspian and elsewhere. Such research could be conducted along two axes. Firstly, how successful has the EU been in promoting its *energy*

\(^379\) However, other ‘newer’ energy-rich areas such as the eastern Mediterranean (in the territorial waters of Turkey, Cyprus and Israel) also present scope for similar analysis.
governance in the upstream? Which areas have third party countries adopted and how can patterns of adoption be explained\(^{380}\)? Likewise, how successful has the EU’s commercial energy diplomacy been, both in the sense of opening markets, reacting to political risks and mitigating territorial non-coincidence in foreign energy markets (particularly in the MENA region following the Arab Spring)?

Thirdly, there is considerable scope for the investigation of EU political risk mitigation beyond the energy sector. At present, knowledge of EU public-private interaction, external governance promotion and commercial diplomacy is underdeveloped and an important emerging field of research. Focusing on dimensions of political risk mitigation across different economic sectors, a project in this area could advance knowledge of the EU’s proactive and reactive political risk mitigation policies, evaluate public-private partnerships in European commercial diplomacy across a number of sectors and further contribute to understandings of the overlap between the EU’s various security, market-promoting and diplomatic activities.

\(^{380}\) An additional question here could be focus on how regional players and countervailing governance structures (such as EurAsEC in Central Asia) impact on the EU’s efforts to export governance. See Stoddard (2012).
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ANNEX ONE

JOINED-UP THEORY: PHILOSOPHICAL AND SCIENTIFIC ONTOLOGY, ANALYTICAL FRAMEWORKS AND HEURISTIC THEORETICAL MODELS

As described in chapter two, this thesis seeks to develop an eclectic approach to theorising European energy cooperation. However, development of an eclectic style of conceptualisation does not license an incoherent, ‘anything goes’ approach. Little is to be gained from eclecticism if the result is methodological disjointedness or theoretical incommensurability. Furthermore, given that this thesis critiques some of the ontological foundations of contemporary energy theorisation, it is incumbent on the author to outline, in detail, his approach. Therefore this annex seeks to outline the joined-up ontological-theoretical approach employed in this thesis starting with the most abstract philosophical issues and working down to a discussion of the type of heuristic theoretical frameworks that are utilised to explain European upstream cooperation in the Caspian.

The first section outlines the distinction between philosophical and scientific ontology, explaining how philosophical ontology underpins scientific ontology and is thus analytically prior. The second section details and further justifies the critical realist philosophical ontology381 adopted in this study. The third completes this annex by elaborating on the links between scientific ontology, analytical frameworks and the heuristic, theoretical model formulation of explanation employed in this thesis (outlines in chapter two). This section contributes to the analytical frameworks employed in this thesis by forwarding a politico-economic scientific ontology that seeks to avoid the risks of

381 Not to be confused with realism in International Relations.
incommensurability when incorporating a number of insights from different, and sometimes ostensibly competing, paradigms.

**PHILOSOPHICAL AND SCIENTIFIC ONTOLOGY**

Within the philosophy of social science, ontology can be thought of in both a *philosophical* and *scientific* sense (Jackson, 2011b, p.28; Patomäki & Wight, 2000, p.215; Hay, 2006, p.80). These two are intrinsically related, with philosophical ontology being the most foundational and thus both analytically prior to and the basis for scientific ontology. Jackson (2011b, p.28) explains that philosophical ontology concerns the “conceptual and philosophical basis on which claims about the world are formulated in the first place: [this is] ontology as our ‘hook up’ to the world, so to speak, concerned with how we as researchers are able to produce knowledge in the first place”. As Hay (2008, p.80) states, this form of ontology is “concerned with the nature of being itself – what it is to exist382, whether (and if so why) there exists one logically consistent world”.

Less abstract and closer to the empirical content of research, *(social)* *scientific ontology* is the “catalogue of objects, processes, and factors that a given line of scientific research expects to exist or has evidence for the existence of” (Jackson, 2011b, p.28). This is the form of ontology most commonly discussed in the political science literature. It refers to “*political being*, to what is politically, to *what exists* politically and to the units of political inquiry” [emphasis in original] (Hay, 2006, p.81). Scientific ontology is more closely related to precise areas of inquiry than philosophical ontology and addresses more specific questions concerning, for example, the key units or actors of analysis in a

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382 Rather than necessarily what *does* exist. Questions of what *does* exist pertain more to the realm of scientific ontology.

383 Hay (2006, p.80) suggests that this second notion of ontology refers to a “set of assumptions made about the nature, essence, characteristics (in short, the reality) of an object or set of objects of analytical inquiry”.

384 In terms of practical examples, philosophical ontology relates to questions such as whether researchers can be said to exist independently of the reality they seek to investigate or whether one can know of anything more than that which one can directly observe.
particular instance of politics or whether and how material factors take precedence over ideas in a given case of socio-political interaction (or vice versa).

PHILOSOPHICAL ONTOLOGY: CRITICAL REALISM AS A BASIS FOR ECLECTICISM AND INTERDISCIPLINARITY

The analytical framework utilised in this thesis is ultimately based on a critical realist philosophy of social science. Critical realism provides a pragmatic philosophical ontological approach to research that encourages interparadigmatic theorising and through its broader, Aristotelian understanding of cause, allows for an accommodation of material and ideational factors in analysis. Indeed, a critical realist position provides a solid underpinning for interparadigmatic eclecticism, analysis of agents and their complex interwoven relations with their respective structural contexts and the impact of ideational and material sources of cause in explaining outcomes. Such a position is logically capable of supporting the eclectic type of framework outlined below.

As a philosophy of science, critical realism is committed to a number of core philosophical tenets that facilitate a certain degree of pragmatism in research. Firstly, a critical realist viewpoint denotes “mind-world dualism” (Jackson, 2010b, p.92). That is to say critical realists are ontologically realist and thus hold that there is a reality that exists independently of our (individual) minds (Patomaki & Wight, 2000, p.225; Kurki, 2008, p.206). This does not mean, however, that an independent reality necessarily exists outside of all minds, in the sense that critical realism accepts that intersubjective understandings between individuals can have causal impact on the world. However, it is to state that reality is not just a subjective product of our individual minds. Secondly, critical realism is epistemologically relativist stressing that all scientific knowledge about the independent world is socially produced and thus inherently bound up in the subjective

385 Indeed, Patomaki and Wight argue that the “intersubjective represents merely one important and necessary part of the social” (2000, p.225).
social and political context in which research takes place (including the subjective perceptions of the researcher) (Patomaki & Wight, 2000, p.225). However, importantly, critical realism is also *judgementally rationalist*, arguing that despite the inherent subjectivities of research, researchers can still get close to understanding the real world as it is possible to give justifiable, logical grounds as to why one set of ideas should be preferred over another (Patomaki & Wight, 2000, p.225). These three tenets together embody a certain pragmatism in research amounting to a position where a researcher accepts that there is a reality that exists independent to them, that they are nonetheless affected by a degree of subjectivity in their own attempts to understand that reality, but that they should aim to be systematic and exercise judgement in seeking to reduce their biases and get ‘closer’ to the truth (Kurki, 2006, p.203)\(^{386}\).

The mode of theoretical inquiry in critical realism is not inductive inference (moving from particular observation to general claims) or deductive inference (moving from general claims to confirming or falsifying these claims in particular instances) but rather *abduction*. Abduction works by producing plausible claims for particular instances based on the available data (Jackson, 2010b, p.82). As Jackson notes (2010b, p.83), the purpose of abduction is “to posit, or conjecture, the existence of some process, entity or property that accounts for the observational data”. These explanations may be related to configurations between observable data, but crucially in the case of critical realism they can also relate to unobservable, but nonetheless causal, factors\(^{387}\).

Abductive theorising involves outlining the important causal mechanisms that contribute to particular observed outcomes. Kurki (2006, p.) highlights that critical realism takes a broader, view of causality than other philosophies of social science (particularly neo-positivism) and consequently opens up the possibility for different types of cause to have

\(^{386}\) Put more pithily - there is an independent truth, we can probably never be certain that we have reached it, but we should try our hardest to do so.

\(^{387}\) *Nuomena* in Kantian terminology.
causal impact, including both material and ideational factors. This wider, Aristotelian view of cause is based on an understanding that social systems are 'open' rather than 'closed' and thus areas where "multiple causes interact and counteract each other in complex and, importantly, unpredictable ways" (Kurki, 2006, p.202). Kurki thus states that "the central focus of causal analysis is not the analysis of isolated independent variables (through statistical methods), but rather understanding the complex interaction of a variety of different kinds of causal factors (through the building of conceptual frameworks)" (2006, p.202). This wide understanding of cause opens up the possibility of developing theoretical frameworks that incorporate both a number of different factors, actors and processes as causally important (as the theoretical frameworks highlighted in chapter two seek to do).

The open and multi-causal nature of social systems requires an eclectic interparadigmatic approach to research (Patomaki & Wight, 2000, p.226). According to Patomaki & Wight (2000, p.226), all competing theories must contain some degree of commensurability otherwise it would be impossible for them to discuss the same phenomena. Indeed, it is in the logic of explanation and in the identification of the causal phenomena that different paradigmatic approaches in the social sciences differ and clash. However, the wider understanding of causality inherent to critical realism weakens (but does not necessarily always resolve) these dichotomies and allows for investigation of how different causal factors employed by different paradigms interact in given instances. Critical realism thus directs attention to the ontological overlap between different theories, and crucially, the potential for their possible fusion (Patomaki & Wight, 2000, p.226). In this sense, critical realism allows development of the non-reductive, eclectic analytical frameworks necessary for investigation of EU upstream energy cooperation in the Caspian.

Kurki outlines four types of causality (2006, p.206). Material causes refer to the material factors that contribute to a particular outcome. Formal causes refer to the ideas that shape how something comes about. Efficient causes refer to the factors by which something is brought about and final causes refer to the objectives or the reasons for which something is brought about (Kurki, 2006, p.206).
SCIENTIFIC ONTOLOGY, ANALYTICAL FRAMEWORKS AND HEURISTIC THEORETICAL FRAMEWORKS

Moving beyond philosophical ontology, scientific ontology serves a fundamental role in International Relations (as all social scientific inquiry) as it forms the basis of the analytical frameworks from which theoretical models or explanations are derived (see fig.8). Scientific ontology and analytical frameworks are in a sense one and the same thing with analytical frameworks representing a select series of scientific ontological axioms systematically ordered to facilitate investigation of a particular issue. As Stanley (2012b, p.475) argues, ontological assumptions “make possible explanations”. In determining beliefs about nature of the constituent units of political affairs and their interrelationships, scientific ontologies and the analytical frameworks they underpin “help categorise and reduce [the world's] inherent complexity” (Stanley, 2012b, p.476). As a result, ontologies in political science are always simplifying to a certain extent and thus do not necessarily provide specific explanations themselves, but rather allow for specific frameworks, theoretical models and explanations to be developed (Stanley, 2012b, p.476).

Fig. 8: The hierarchy of ontologies, frameworks and theories. Source: Own elaboration.
Unlike wider scientific ontology, specific theoretical explanations or models relate directly to certain aspects of ‘reality’ and while still abstractions, intend to explain particular instances of human affairs. These of course may take numerous forms (heuristic models, hypothetico-deductive claims or Weberian ideal types for example). However in all cases they are (indeed must be) based on and concurrent with the ontological axioms that make up broader analytical frameworks. It is in this sense that scientific ontological assumptions, whether explicit and stated, implicit and unstated or unreflexively-held, condition the potential theoretical explanations of reality. The full details of the scientific ontological positions of this thesis are outlined in chapter two.

It is also necessary to outline the heuristic model form of theorisation utilised in this thesis (Clarke & Primo, 2007; Humphreys, 2010) – see chapter two. Such an approach entails the elaboration of conceptual devices that are “useful for particular purposes” in the study of Eurasian energy politics (Clarke & Primo, 2007, p.742). Related more directly to the issues under investigation than an analytical framework (from which it necessarily derives) a heuristic model outlines the sort of explanations required, provides conceptual categories to organise empirical material and indicates the actors, mechanisms and background conditions that need to be examined in a specific given instance (Humphreys, 2010, p.263). As Clarke and Primo suggest (2007, p.742), such models in political science are conceptual ‘maps’ and should be judged on their ability to usefully explain the world rather than exactly correspond to it. In this sense one should not seek to ascertain whether such models are strictly true or false per se, but rather whether the logic inherent to the model explains the inherent logic of the part of the subsystem of human affairs that it seeks to explain (Clarke & Primo, 2007, p.742).

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389 For discussions of the difference between mind-world monist and mind-world dualist approaches to research see Jackson (2011b, chapter two).
390 These are intrinsically related to the philosophical ontologies adopted as we see here the link between methodology and method – see Jackson (2011b).
391 Clarke and Primo give the example of a subway line that does not correspond accurately to reality but rather provides a model that is nonetheless highly useful (Clarke & Primo, 2007, p.742). This is because while a map does not correspond to reality in a descriptive sense, it does in a logical sense (in the form of necessary logic for the purposes of using the map).
ANNEX TWO

LIST OF ENERGY COMPANY, EUROPEAN UNION INSTITUTION AND EU MEMBER STATE DOCUMENT SOURCES USED

Energy Companies and Industry Associations


**EU Actors and Institutions**


European Commission. (2010c). *Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee, and the Committee of the


**Member States**


ANNEX THREE

LIST OF INTERVIEWS (including follow-up interviews)

- EEAS - Desk Officer (Eastern Partnership [a]), Brussels, 28.6.2011
- European Commission - DG ENERGY - Desk Officer [a] - (International Relations and Enlargement), Brussels, 7.7.11
- EEAS/Commission - Desk Officer - (Foreign Policy Instruments), Brussels, 14.7.2011
- European Commission - DG TRADE - Desk Officer - (Central Asia), Brussels, 19.07.11
- European Commission - Desk Officer [a] - DG ENERGY (International Relations and Enlargement), Brussels, 25.7.11 – [second interview]
- European Commission - DG ENERGY - Desk Officer [b] - (International Relations and Enlargement), Brussels, 27.7.11
- European Commission - DG DEVCO - Desk Officer [a] - (Neighbourhood East), Brussels, 29.7.11
- EEAS - Special Advisor to the EU Special Representative for Central Asia [a], Brussels, 28.7.2011
- European Commission - DG ENERGY - Desk Officer [c] - (International Relations and Enlargement), Brussels, 28.7.11
- EEAS - Desk Officer [a] - (Central Asia), Brussels, 29.7.2012
- Former Interior Ministry Official - Kazak Government, London, 2.4.12 [second Interview]
- EEAS - Desk Officer - (Central Asia [b]), Brussels, 21.5.2012
- European Commission - DG DEVCO - Desk Officer [a] - (Neighbourhood East), Brussels, 21.5.12 [Second Interview]
- European Commission - DG DEVCO - Desk Officer [b] - (Neighbourhood East), Brussels, 21.5.12
- European Commission - DG ENERGY - Desk Officer [a] - (International Relations and Enlargement), Brussels, 21.5.12 [Third Interview]
- European Commission - DG ENERGY - Desk Officer [c] - (International Relations and Enlargement), Brussels, 21.5.12 [Second Interview]
- EEAS - Desk Officer - (Central Asia [a]) , Brussels, 23.5.2012 [Second Interview]
- EEAS/Commission - Desk Officer - (Foreign Policy Instruments), Brussels, 23.5.2012 [second Interview]
- EEAS - Desk Officer - (Central Asia [c]), Brussels, 23.5.2012
- German Foreign Ministry Desk Officer (Eastern Europe and Central Asia), Brussels, 23.5.2012
- EEAS – Deputy Head of Unit – (Central Asia), Brussels, 23.5.2012
- European Commission - Desk Officer [b] - DG ENERGY (International Relations and Enlargement), Brussels, 24.5.12 [Second Interview]
- Senior Policy Analyst - Open Society Institute , Brussels, 25.5.2012
- EEAS - Desk Officer - (Eastern Partnership[b]), Brussels, 25.5.2012
- European Commission - Trade Officer - Astana, Kazakhstan 16.8.12
- Samruk Kazyna (Kazakh State Holding Company) – Managing Director – 17.8.12
- UK Foreign Office - Policy Officer, Astana, Kazakhstan 20.8.12
- EEAS - Energy Officer - Astana, Kazakhstan 20.8.12
- Former Kazak Presidential Administration Official, Astana, Kazakhstan, 20.8.12
- British Petroleum – Group Advocacy Advisor, Brussels, 20.11.12
- British Petroleum - Policy Officer – External Affairs, Brussels, 20.11.12
- EEAS - Special Advisor to the EU Special Representative for Central Asia [b], Brussels, 23.11.2012
ANNEX FOUR

LETTER FROM THE ETHICS COMMITTEE

[See overleaf]
ANNEX FIVE

UPR16 ETHICAL CONDUCT FORM

[See overleaf]
### FORM UPR16
#### Research Ethics Review Checklist

Please complete and return the form to Research Section, Quality Management Division, Academic Registry, University House, with your thesis, prior to examination

<table>
<thead>
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<th>Postgraduate Research Student (PGRS) Information</th>
<th>Student ID: 246060</th>
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<td><strong>Candidate Name:</strong> Edward James Armstrong Stoddard</td>
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<tr>
<td><strong>Department:</strong> SSHLS</td>
<td><strong>First Supervisor:</strong> Dr Paul Flenley</td>
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<td><strong>Start Date:</strong> 1.10.09</td>
<td><strong>(or progression date for Prof Doc students)</strong></td>
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If you are unsure about any of the following, please contact the local representative on your Faculty Ethics Committee for advice. Please note that it is your responsibility to follow the University’s Ethics Policy and any relevant University, academic or professional guidelines in the conduct of your study. Although the Ethics Committee may have given your study a favourable opinion, the final responsibility for the ethical conduct of this work lies with the researcher(s).

**UKRIO Finished Research Checklist:**
(If you would like to know more about the checklist, please see your Faculty or Departmental Ethics Committee rep or see the online version of the full checklist at: [http://www.ukrio.org/what-we-do/code-of-practice-for-research/](http://www.ukrio.org/what-we-do/code-of-practice-for-research/))

| a) Have all of your research and findings been reported accurately, honestly and within a reasonable time frame? | YES |

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<th>Question</th>
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<td>b) Have all contributions to knowledge been acknowledged?</td>
<td>YES</td>
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<td>c) Have you complied with all agreements relating to intellectual property, publication and authorship?</td>
<td>YES</td>
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<tr>
<td>d) Has your research data been retained in a secure and accessible form and will it remain so for the required duration?</td>
<td>YES</td>
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<tr>
<td>e) Does your research comply with all legal, ethical, and contractual requirements?</td>
<td>YES</td>
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Candidate Statement:

I have considered the ethical dimensions of the above named research project, and have successfully obtained the necessary ethical approval(s)

Ethical review number(s) from Faculty Ethics Committee (or from NRES/SCREC): 11/12:31

Signed: Edward Stoddard  
(Student)  
Date: 27.5.2014

If you have not submitted your work for ethical review, and/or you have answered 'No' to one or more of questions a) to e), please explain why this is so:

Signed:  
(Student)  
Date: