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Veröffentlichungsversion / Published Version
Zeitschriftenartikel / journal article

THE BALTIC SEA REGION IN THE CONTEXT OF EUROPEAN DEVELOPMENT

EU — RUSSIA ENERGY COOPERATION: MAJOR DEVELOPMENT TRENDS AND THE PRESENT STATE

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The article analyzes the development of EU — Russia energy relations through the lens of the evolution of three parameters: the political agenda (the Energy Dialogue), the institutional structure, and the legal modalities. The identification of these three aspects for assessing the evolution of EU — Russia energy relations is the novelty in the author's approach. This study aims to identify the previous stages and assess the current state of EU — Russia energy dialogue, since they set out conditions for energy cooperation in the Baltic Sea region. This research is based on a political and legal analysis of various documents and employs various international relations theories (including integration theories). The article demonstrates that the EU and Russia have made a transition to the integration agenda manifested in the Energy Dialogue (its current goal is the creation of a common European energy market). The author describes the process of gradual consolidation of transgovernmental and transnational institutions, which leads to depoliticization of cooperation and mutual socialization of the partners. Finally, legal discussions on the development of common rules have become more constructive. In sum, the current situation in EU — Russia energy relations is favourable and positively affects cooperation in the Baltic Sea region.

Key words: EU — Russia relations, energy dialogue, energy charter, institutions

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Submitted on March 20, 2013.

doi: 10.5922/2079-8555-2013-3-1

The Baltic Sea region is an area of rapidly developing energy cooperation, which includes hydrocarbon transportation from Russia to Western and Central Europe, active trade in electricity, and energy conservation technology exchange. And this is not a mere coinci-

dence. The reasons behind this are the attitudes of the Baltic Sea region countries towards cooperation and the region being a contact point of the two major actors of the Old World — Russia and the European Union — striving for close cooperation in energy. The EU gains resources vital for its economy, and the Russian Federation gets a steady inflow to its Treasury. The interaction between Moscow and Brussels has been largely affected by the density of energy relations in the Baltic. Thus, the assessment of cooperation prospects in the region requires a thorough analysis of the evolution and current state of Moscow-Brussels relations.

In my opinion, the agenda of the Energy Dialogue launched in 2000, the transformation of the institutional structure of cooperation, and the modification of legal parameters give a comprehensive description of the interaction. As to these three aspects, Moscow and Brussels have reached fundamentally new positions; it makes it possible to plan a further development of relations. Let us consider it in greater detail.

The evolution of EU — Russia energy cooperation agenda

The energy dialogue as a basis for the industry-specific political discussion between Russia and the EU was launched in October 2000 in order to "ensure progress to be made in determining the EU — Russia energy partnership" [1]. The partners emphasised the need to focus on supply and demand security, the efficient use of the infrastructure, and the opportunities for European investment. Summit declarations were followed by the work of expert groups that identified the most contentious and burning issues. At first [2], the objectives were divided into long- and short-term ones; however, this differentiation was soon rejected.

If one attempts to describe the initial stage of the Dialogue with one word, it will be "patchwork". The parties would pull the most acute issues out of the fabric of relations and try to settles them; nevertheless, they oriented towards short-term objectives rather than a fundamental revision of relations and the development of a long-term perspective. However, some urgent problems were solved at the time. The parties stressed the importance of long-term contracts for the supply of natural gas and identified the modalities of technological cooperation (for instance, a joint technological centre was opened in Moscow). Moreover, the parameters for the cooperation in the field of energy efficiency were set; the EU persuaded Russia to ratify the Kyoto Protocol, since its coming into force was a necessary condition for all the participants. The priority infrastructure projects were outlined, namely, the Nord Stream and the second line of the Yamal-Europe pipeline, the synchronous interconnection of the Russian and EU power systems, the Burgas—Alexandroupoli pipeline, and the integration of the Druzhba and Adria systems. Finally, several meetings took place, which focused on the comparison of the Russian Energy Strategy [3] and similar EU documents [4; 5]. All the above was supposed to form a basis for joint strategic planning of prospects for the development of industry-specific ties; however, no progress ever took place.

In 2007, the second transit period of the Dialogue began. The year 2007 was chosen as a starting point, since it is then that a report on the progress of the Energy Dialogue [6] demonstrated a change in the agenda, as well as an intention to transform certain institutional modalities of cooperation[1]. However, this transformation was a result of discussions that took place in 2005—2007. Instead of listing particular contentious issues, the partners formulated the agenda.

Firstly, the discussion focused on the strategies, forecasts, and scenarios for the development of power industry in Russia and the EU. This exchange of opinions was aimed at harmonising strategic visions of the parties so that the joint planning of further steps would be possible in the energy sector.

Secondly, the parties actively discussed the market organisation; it was a clash of two opposite positions. The EU suggested that maximum competition be encouraged in the natural gas sector and generation be split from transmission. It is on this foundation that the EU was ready to create a common European market. Russia insisted on the gradual liberalisation of prices without the unbundling of energy companies with state-owned controlling interest. To a certain degree, the tension of this part of the dialogue was a result of the EU's aspiration to impose its solutions on Russia rather than develop a common mutually acceptable option. In effect, the EU tried to compensate for its energy dependence on Russia through a regulatory expansion.

Finally, the third focal point of the agenda was clean energy (an increase in energy efficiency, the development of renewable sources, and a reduction in CO_2 emissions). In this case, the cooperation was rather amicable: the parties shared experience, harmonised legislations, implemented joint projects (including those on the basis of three energy efficiency centres in Astrakhan, Arkhangelsk, and Kaliningrad). The parties also reached an agreement on the exploitation of single-hull oil tankers.

All in all, the second stage of the Dialogue gravitated towards the convergence of positions; certain attempts at outlining joint evolution were made. At the same time, the cooperation in the field of clean energy showed that the interaction was most efficient in those areas, where the equality of partners was ensured. It is reached either through the convergence of national goals (the case of energy efficiency increase and the renewable sources development) or through cooperation in the framework of international organisations, where Russia and the EU act as equal partners in developing solutions.

However, neither the first nor the second stage of the Dialogue solved the problem of integration of the Russian and EU energy systems. This goal is the focus of the third stage which commenced in 2011. Its key marker is the draft roadmap, the common EU — Russia strategy until 2050 [7]. According to this document, further cooperation is to be structured according to industries (rather than particular problems as was the case before). The map gives a detailed description of the situation as well as joint plans in the field of energy, gas and oil industry, energy efficiency, and the development of

[1] The evolution of the institutional structure will be considered below.

renewable sources. At the same time, both components necessary for a common energy space are taken into account: a common synchronised infrastructure with joint standards and the harmonisation of legal frameworks ensuring free trade and investment.

It is worth noting, that the parties are moving towards mutual understanding though settling the existing differences and trying to find mutually acceptable solutions. To this end, the partners adopted an extended interpretation of their energy priorities in order to create an overlapping cooperation field. It is most pronounced in the definition of the nature of hydrocarbon markets. Brussels insisted on the phrasing "an integrated pan-European market", whereas Moscow focused on the establishment of favourable institutional structures, an increase in the efficiency of generation and transmission, and the modernisation and development of new infrastructure. As a result, the goals set do not only comply with the national plans, but also create a common cooperation field.

Finally, another breakthrough of the third stage is an increasing role of cooperation in the field of energy efficiency. This cooperation mainly lies in Russia's adopting EU practices and certain technological solutions, which partially compensates for the EU's vulnerability: while in the case of hydrocarbon trade it acts as a buyer, in the field of energy efficiency Russia turns into a consumer and Brussels becomes a strong exporter.

Thus, the political agenda of the EU — Russia Dialogue has evolved from the "patchwork" approach aimed at solving individual problems to the convergence of strategic plans and construction of a single European market. Time will tell whether this goal will be reached; however, the current negotiation is a significant achievement for Moscow and Brussels which is favourable for all the initiatives undertaken in the Baltic Sea region.

Institutional bodies and the legal framework are meant to support practical activities. Now we will address these two aspects.

The evolution of EU — Russia energy cooperation institutions

Modern international relations distinguish several types of institutions and actor interactions. The first (traditional) type is the intergovernmental one. Its essence is the high-level dialogue between heads of states and governments, as well as ministers. At the initial stage, their participation is important for setting the terms of cooperation. Of equal importance is their contribution to adjusting the policies and settling differences. However, it is evident that top officials cannot tackle the problems of a single industry (even such an important one as energy) on a regular basis.

The second level, whose intensive development dates back to the 20th century, is called "transgovernmental" by theorists [8—10]. It relates to contacts between mid- and lower level public officials of one state and their counterparts from another country. This dialogue can also involve representatives of regulatory institutions (including those that are technically independent of the state). At this level, cooperation lies in daily contacts aimed to solve current problems and ensure continuous cooperation. At the same time,

most decisions made at this level are of technocratic nature; the efficiency of such an interaction makes it possible to avoid politicisation of current issues.

Finally, there is a transnational level. This involves contacts among companies and business associations, NGOs and trade unions, the scientific community — in other words, an aggregate of non-governmental connections, a dialogue of civil societies. The last sixty years have shown that the closer the cooperation between countries is and the more integrated nature it has, the more the transgovernmental and transnational levels are pronounced. To a degree, they are indicative of the dialogue density. They reached their maximum level in the case of EU countries. A dense cooperation network is characteristic of the dialogue between the EU and Norway or the USA. How can one assess EU — Russia energy relations according to the institutional parameter? At first, EU — Russia energy cooperation was supported by the structures created according to the Partnership and Cooperation Agreement (PCA) in 1994 [11]. According to this document, which is still of fundamental nature to Moscow and Brussels, two summits, a meeting between the head of the European Commission and the Russian Government, a meeting of the Permanent Partnership Council are to take place annually against the background of a dialogue between the European Parliament and the State Duma. The Cooperation Committee and its subcommittees — one of which focuses on energy — were to organise summits; however, the subcommittees (including the energy one) soon ceased to operate. Thus, energy issues were considered only at the intergovernmental level.

This rule was also observed at the initial stage of the Energy Dialogue. In 2001 and 2005, special groups were set up to develop and upgrade the agenda. They brought together mid- and lower level officials, businesspeople, and members of the academic community. However, the work at the transgovernmental and transnational levels was strictly limited in time (six months). Thus, EU — Russia relations could not reach an integration level, whereas many aspects were often politicised.

The only institutional innovation of the initial stage of the Dialogue was a group of exclusive negotiators, which consisted of one high-level official from Russia and the EU. (Russia was always represented by the minister of energy, as to the EU, first this position was reserved for the head of the Directorate-General for Transport and Energy, i. e. the highest energy official, and later the Commissioner for Energy). Thus, cooperation was granted a special status: the negotiators constantly "monitored" it; however, the interaction hardly went beyond that.

Another novelty of the Dialogue was the development of an early warning mechanism in 2006 (after the Russian-Ukrainian conflict which resulted in irregular gas supplies to EU countries). The mechanism was of limited efficiency; it was designed as a preventive measure (prevention of conflict escalation) rather than to promote an integration form of cooperation. As a result, it failed to prevent the 2009 conflict and reputational damage to Russia. It is only logical that the mechanism was upgraded later.

The most radical institutional innovation was the introduction of *permanent* thematic groups in 2007. The resulting structure of the EU — Russia Energy Dialogue is shown in fig. 1.

In other words, the result was the development of permanent collaboration at the transgovernmental level, which proved its efficiency in 2008 during the Russian-Georgian conflict, when, as a response to Moscow's actions against Tbilisi, many high-level contacts were frozen by the EU. To many officials' surprise, this did not affect current collaboration. The mid- and lower level experts carried on with their daily tasks. Another achievement of 2007 was the fact that all the three thematic areas got their institutional support (permanent groups).

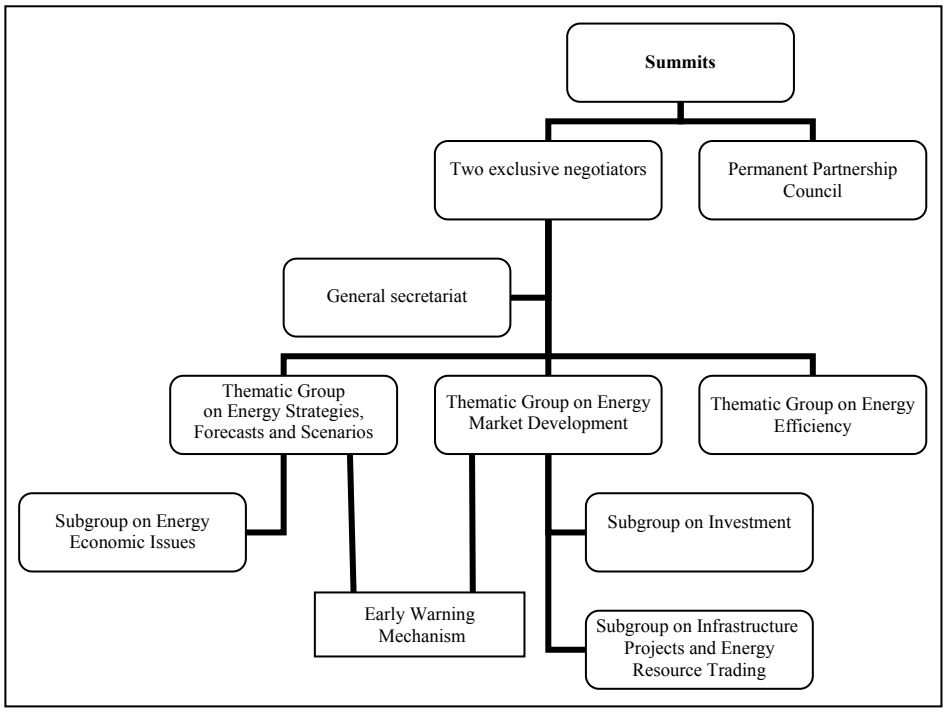

Fig. 1. The institutional structure of the Energy Dialogue in 2007—2011

However, it was not the final stage of the institutional transformation. In 2011, as the thematic focus of the Energy Dialogue changed, it underwent further alterations. The resulting structure is shown in fig. 2.

Despite the fact that planning and integration of markets concern all sectors, only the groups on strategy, electricity, nuclear energy, and energy efficiency were set up. How can this be explained? It seems that the existing structure was created not only in order to establish a common European market by 2050 (it is the task of the first thematic group), but also to tackle the aspects that would transform the cooperation from a mere exchange of gas for "delicacies" into industrial cooperation and trading in processed energy products. It is not a coincidence that the latter two groups (on nuclear energy and energy efficiency) are closely connected with the Partnership for Modernisation signed by Russia and the EU in 2010, which also has a favourable effect on relations in the Baltic Sea region characterised by active trade in energy efficient technologies.

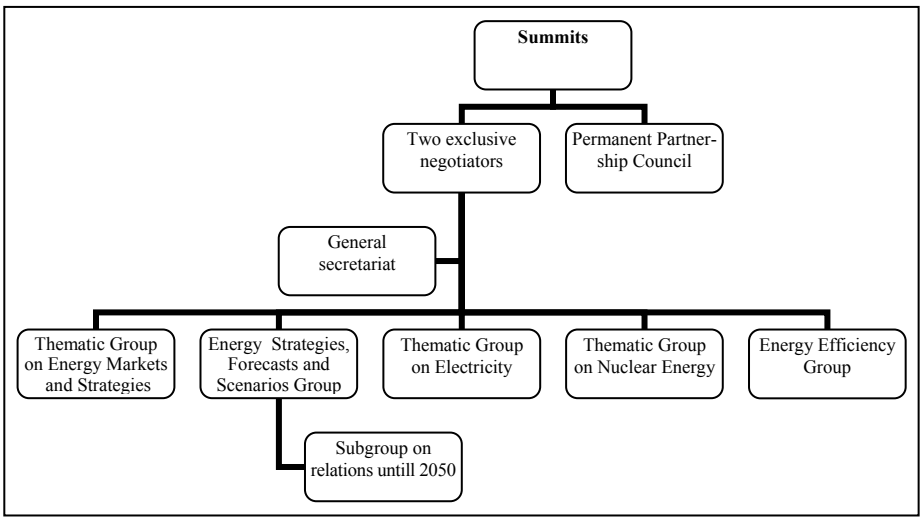

Fig. 2. The institutional structure of the Energy Dialogue since 2011

Cooperation at the transnational level is also developing rapidly. The basic business cooperation structure (EU — Russia Industrialists Round Table) also includes a group on energy. Contacts have been established between Eurogas (an association representing the European gas sector) and the Russian Gas Society; between Eurelectric (an association of EU electrical power companies) and Russian electrical power companies. European companies purchased assets in the Russian energy industry, whereas Russian enterprises bought those on the territory of the EU, although with mixed results. Finally, the cooperation of environmental organisations and the academic community is also developing.

Thus, at the moment, Russian and EU energy sector exhibits a trend towards a gradual consolidation of transgovernmental and transnational relations. It has at least two consequences. The first one is the gradual depoliticization of the dialogue, the transition of most problems from summit discussions to the technocratic level. The second one is a gradual socialisation of officials, businesspeople, and NGOs. In a long-term perspective, this process should encourage mutual understanding and create a stable framework for the cooperation development.

However, alongside functioning institutions, stable energy relations also require a solid legal framework, whose evolution in the case of Russian and the EU relationships will be considered in the conclusive part of the article.

The legal tools of the EU — Russia energy relations

The PCA of 1994 [11] did not contain any special provisions on energy; all relevant aspects were covered in one article. It was logical, because the PCA contained a direct reference to the Energy charter [12] and the corresponding Treaty (ECT) [13]. It is worth noting that the authors of the ECT designed it as a framework for a new community, which will include the whole post-Soviet space alongside the European Union [14]. It is not a coinci-

dence that the legal texts were based on the current EU energy legislation and, first of all, the concept of market liberalisation and competition promotion.

However, Russia — having taken part in the development of both documents — kept on postponing the ECT ratification and, finally, withdrew from it in 2009. The reasons behind this decision are well-known. These include the fact that the Charter and the ECT pursue the interests of consumers rather than suppliers, a concern that Russia could be forced to open the pipelines for the free transit of Central Asiatic gas to Europe, as well as the lack of provisions on nuclear energy, which left the ECT without its only possible Russian lobbyist (Rosatom). Moscow's decision resulted in a legal vacuum in EU — Russia energy relations. Brussels insisted on Russia's ratifying the ECT; in practice, the partners relied either on the general rules of international law or contractual obligations.

The second stage of the legal evolution of EU — Russia relations can be dated back to 2006. While during the preparation of the Energy Charter and the ECT Brussels played the key role, at the second stage Russia tried to take priority in relevant decision-making. The dominant concern was Moscow's aspiration to create a new regime, which would be based on the needs of not only consumers, but also suppliers. Major significance was attached to the concept of global energy security. For the first time, it was presented during the Russian presidency of the G8 in 2006, when energy became one of the key topics [15]. However, it was expressed in the form of the soft law (general declarations and principles which did not have any legally binding force).

This declaration was followed by the Kremlin's attempts to fill them with specific legal content. For instance, one can remember the transit proposals [16] and the draft convention on energy security [17] drawn up in 2009. Neither document was warmly welcomed in Brussels, EU member states insisted unanimously on the ECT.

The third stage of the development of the legal framework for EU — Russia relations began in 2012. It relates to at least three aspects. The most important one is Russia's accession to the WTO in August 2012. If one considers gas, coal, and electricity as goods (which is a fundamental rule of modern international law), trade is regulated by transparent rules. Moreover, for the first time, Moscow and Brussels got a judicial institution that could resolve conflicts of trade and economic nature.

The second aspect is the negotiation on the framework agreement between Russia and the EU, which commenced as early as 2008 and intensified after the Russian accession to the WTO. One of the stumbling stones of these discussions is the question as to whether energy should be included into the main context. The EU strives to make this section as detailed as possible and fill it with specific content (borrowing it from the ECT and its internal legislation), whereas the Russian position is that the framework agreement should be concise and all industry-specific aspects (including energy) be regulated by additional protocols.

Finally, the third aspect of the current stage of legal development in the field of energy is the renewed negotiations on the possibility of Russia's return to the ECT after the revision of the text. This step would be, of course,

the most constructive solution to the problem of a lack of legally binding rules in the European energy sector. It would help harmonise the positions of the key consumer (EU) and supplier (Russia).

Thus, the evolution of the legal framework has not been completed yet; however, one can assert that the parties are gradually moving towards constructive collaboration.

Conclusion

The above analysis shows that the political agenda, institutional provisions, and legal provisions regulating the EU — Russia energy relations have evolved significantly. Today, they are at a rather favourable stage. As to the energy cooperation agenda, Moscow and Brussels moved from the 'patchwork' approach to long-term planning and delineating the European energy market. One can speak about the consolidation of transnational and transgovernmental levels, which support the intergovernmental dialogue and contribute to its depoliticization and stabilisation. Finally, the legal aspect shows trends towards overcoming legal vacuum, which are manifested so far through international institutions (the WTO and, potentially, the revised ECT). A possibility of negotiations on a new bilateral framework agreement is considered now as a contingency plan, largely because of the Russian position.

Despite certain procrastination in the legal field, it seems that a positive context is shaping up for the development of energy cooperation of the parties. It will certainly have a beneficial effect on cooperation in the Baltic Sea region.

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