

External dimension of the EEP II.

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Powers and tools of the EC

1) Management of external relations and dependency

- Support of diversification.
 - Diversification of fuels.
 - Diversification of suppliers.
 - Diversification of transit routes.
- Strategic reserves of oil and gas.

2) Export of energy acquis communautaire via network of bilateral, multilateral and global treaties covering (to some extent) energy issues.

3) Improvement of the EU's internal resilience using Internal energy market mechanisms.

=) **conceptualization of the external dimension of the EEP**

Conceptualizing the policy field

- 1) External dimension of the EU internal energy market
- 2) Energy security or foreign energy policy
- 3) Intersection between energy policy and other foreign-policy aims

What kind of international actor was EU emerging as?

EU as a market power?

EU as a traditional power?

EU as a normative power?

External dimension of the EU internal energy market

EU as a market power?

- Aim: the creation of a common energy regulatory space with third countries
- The main idea: a liberalized and de-monopolized energy sector is the best guarantee for efficient and reliable supplies of energy
- Examples: Energy Charter Treaty (ECT), European Energy Community Treaty (EnC)...

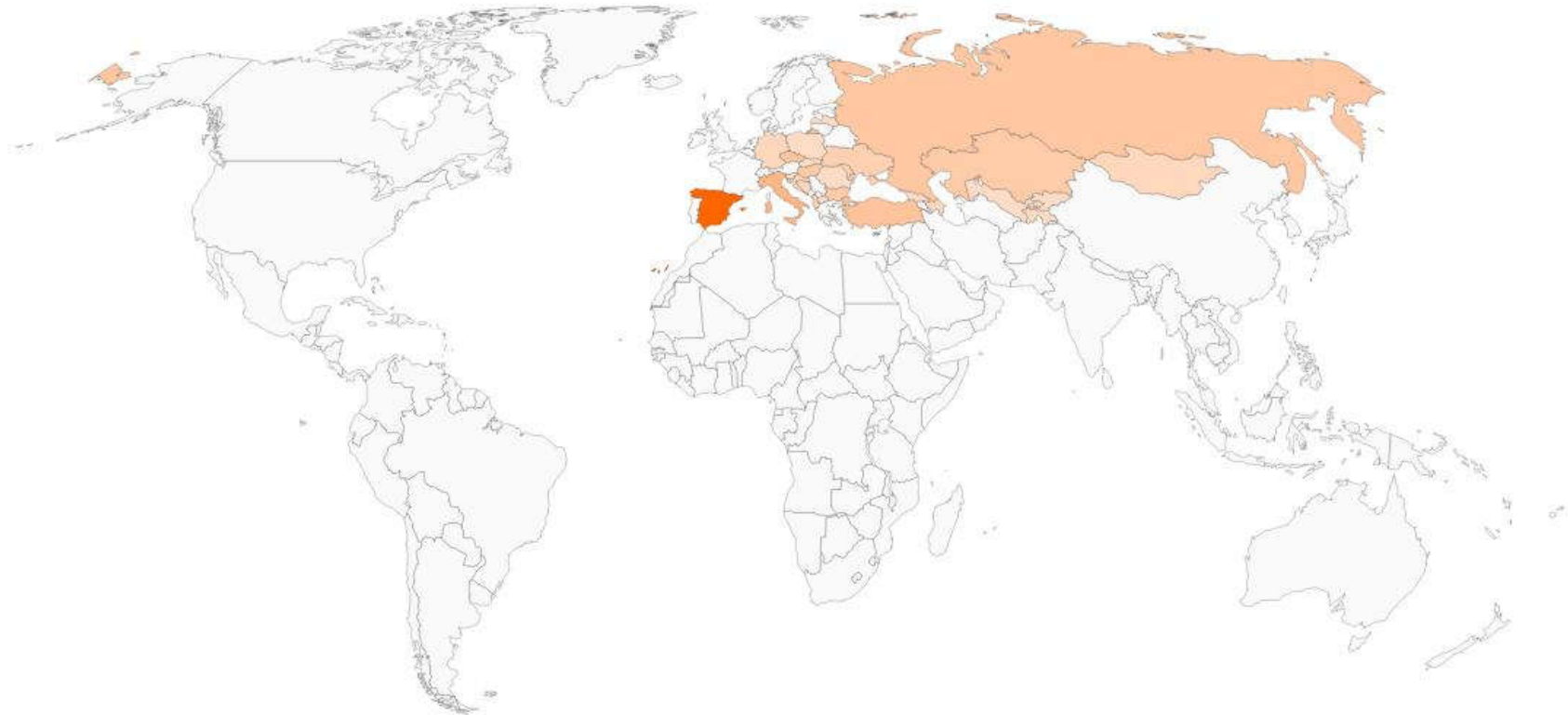
Energy Charter Treaty

European Energy Charter	Dec 1991	political commitment – not legally binding Sets out principles and objectives to govern East/West negotiations on energy issue Context: End of Cold War
Energy Charter Treaty (ECT)	Dec 1994	52 states + EU and Euratom – legally binding entered into force April 1998
International Energy Charter	May 2015	Same universal principles for new challenges New observer countries from all continents

- ECT a largely European initiative to address post cold-war political map.
- ECT tries to guarantee open markets, non-discrimination and access for foreign investment.
- Investment provisions modelled on BITs.
- Prevent abuse of sovereign power.
- ISDS to overcome deficiencies in local dispute resolution.

Investment Dispute Cases Heatmap

Frequency of Investor-State dispute cases per Country

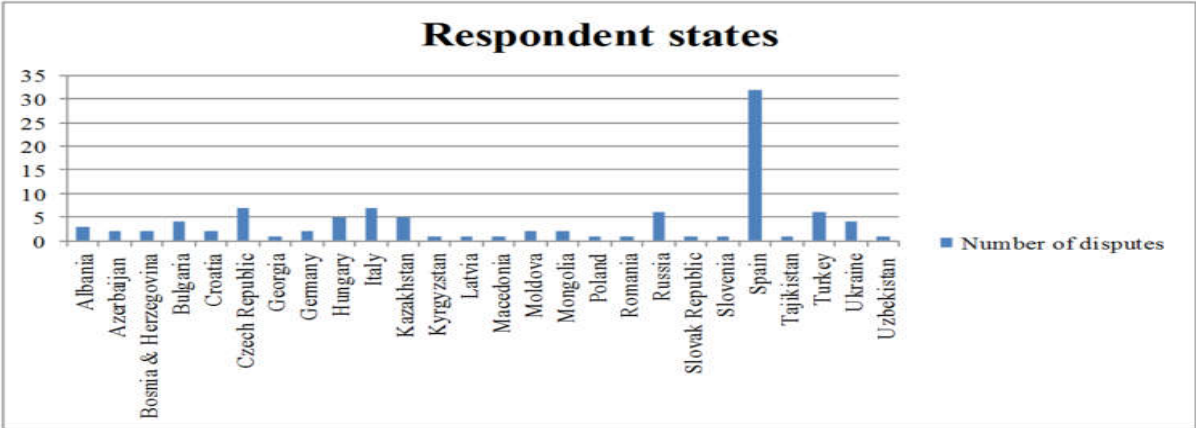
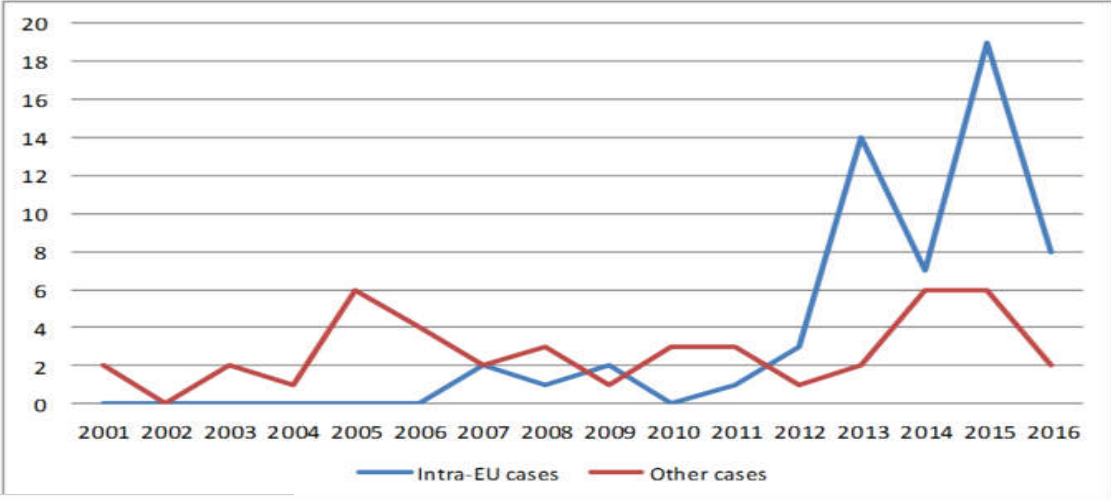


Number of Cases



0 10 20 30

The ECT Statistics



Energy Charter Treaty

Main problems	European organization with global impact?
	Position of the U.S., Canada, etc.
	Russia's attitudes toward ECT

Russia's attitudes toward ECT:

- ECT is consumer-friendly and 'EU-sponsored Treaty'
- Misunderstandings and Misinterpretations? (e.g. TPA)
- Transit protocol
 - REIO clause
 - access to pipeline and tariff-setting procedure
 - right-of-first-refusal on renewal of transit terms for existing users.
- Investment protection (Yukos case)
- Dispute settlement mechanism (Art. 7)

External dimension and internal market

- EC vs. Gazprom
- September 2011 EU antitrust officials made unannounced inspections of the energy companies in 10 CEE MS
- September 2012 – EC opened formal proceedings against Gazprom for allegedly violating EU competition rules (abusing its dominant position in CEE's gas supply markets)
- Three potentially anticompetitive practices:
 - Market partitioning (destination clauses)
 - Barriers to supply diversification (breaching of TPA principle)
 - Unfair pricing (long-term take-or-pay contracts, oil indexation)

Energy security or foreign energy policy

- EU as a traditional power?
- Aim: Speaking with one voice
- The main idea: Rather than relying mainly on markets for security of supply, energy security (or foreign energy policy) connote a higher degree of political intervention
- Examples: Energy Diplomacy, Information exchange mechanism

Is there an emerging EU energy diplomacy?

	Energy Diplomacy – Definition
Problem definition	Energy security as a (geo)political problem Over-reliance on markets; lack of strategic vision
Policy goals	Promote national interest; defend political sovereignty (unity/solidarity, in international institutions or alliances) Ensure energy supplies through strategic diversification and maintaining political trust with foreign suppliers
Policy instruments	Bilateral intergovernmental agreements (IGAs) in energy based on particular terms Political, legal, and economic tools to back strategic energy infrastructure projects or commercial agreements
Policy competences	Public authorities (including high-level political representatives and foreign affairs officials); energy companies (often state owned)

Source: Herranz-Surrallés 2015

Information exchange mechanism on Intergovernmental Agreements (IGA)

- 2011- the EC issued a proposal asking for an information exchange mechanism in the field of energy
- 2012 - an information exchange mechanism was established (decision No. 994/2012/EU)
 - did not grant powers to the Commission to vet the IGAs!
 - focus on the ex-post observation
 - South Stream case
- 2016 – EC proposal for revised information exchange mechanism on IGAs (2016/0031(COD))
 - ex-ante compability assesment IGAS (veto!) + non-binding instruments (NBIs) - Adopted March 2017

Intersection between energy policy and other foreign-policy aims

- EU as a normative power?
- Aim: to reconcile or achieve synergies between energy and broader foreign-policy aims, such as fighting climate change, promoting democracy and development.
- Main idea: energy dependency is impairing the EU's autonomy as a foreign-policy actor and, in particular, its ability to uphold its 'normative' objectives
- Examples: energy–environment nexus, energy–development nexus, energy–good governance nexus

Thank you for your attention!