

THE RUSSIAN PIPE DREAM



A case study on the influence of the European Commission in the
cancellation of the South Stream gas pipeline

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ABSTRACT

This thesis researches to what extent the European Commission has showcased successful policy entrepreneurship in the cancellation of the South Stream gas pipeline. This Russian pipeline was cancelled by Russia in 2014, after the annexation of the Crimea had heightened tensions between Russia and the EU. Russia blamed the European Commission for obstructing the project. The European Commission was opposed to the project, but a number of participating Member States supported the project.

The paper is a case study on the cancellation of the South Stream gas pipeline, testing the theory of Thomas Maltby. Maltby states that the European Commission is able to show limited policy entrepreneurship. This policy entrepreneurship means that the European Commission manages to achieve its preferred policies, despite the differing preferences of Member States. Just like in Maltby's paper, this thesis uses the theories of Pierson and Kingdon to explain the creation of gaps that allow supranational institutions to operate beyond their intended boundaries and the creation of policy windows in which the institutions have the optimal time to push for their preferred policies.

The paper shows that the Third Energy Package allowed the European Commission to frustrate the Russian efforts to construct the gas pipeline. However, this did not prevent construction to start and participating Member States committed themselves to the project. The turning point came with the crisis in Ukraine and the annexation of the Crimea. This damaged the reputation of Russia as a reliable partner and increased the willingness to support Ukraine. In this dire situation, Russia cancelled the pipeline.

The European Commission was able to show limited policy entrepreneurship. In the period after the cancellation. The Commission was able to convince Member States of the need for an oversight position. This allows the Commission to review all external bilateral energy deals of the EU. This increase of supranational external energy policy is a limited success and an example of policy entrepreneurship for the Commission.

INTRODUCTION

“What I can say is the intergovernmental agreements will not be the basis for the construction or the operation of South Stream. Because if the member states or states concerned are not renegotiating, then the Commission has the ways and means to oblige them to do so. And South Stream cannot operate under these agreements.”¹

Klaus-Dieter Borchardt made this statement on 4 December 2013 in a speech to the European Parliament. Borchardt (at the time director for energy markets at the European Commission) presented a list of intergovernmental agreements which contradicted rules of the Third Energy Package to the European Parliament.² It marked the beginning of an open confrontation between the European Commission and a number of member states of the European Union.³ These member states supported the construction of the Russian-backed South Stream gas pipeline, a multi-billion euro project. The Commission had its own agenda, and wanted to block the South Stream project. Supporters of the South Stream faced off against a European Commission armed with the regulations of the Third Energy Package. In the end the South Stream turned out to be a pipe dream, an unobtainable desire for the member states and the Russian gas company Gazprom. This paper will be a case study about this pipe dream, and why construction was halted. The thesis will focus on the South Stream project and the Commissions ability to be an actor during and shortly after this project.

¹ Euractiv, ‘South Stream bilateral deals breach EU law, Commission says’ (version 5 December 2013) <https://www.euractiv.com/section/competition/news/south-stream-bilateral-deals-breach-eu-law-commission-says/> (15 May 2016).

² P. De Micco, *PE 536.413. A cold winter to come? The EU seeks alternatives to Russian gas* (Brussels 2014).PDF E-Book: [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536413/EXPO_STU\(2014\)536413_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536413/EXPO_STU(2014)536413_EN.pdf) 16.

³ The most outspoken member states were Bulgaria, Romania, Greece, Serbia, Hungary, Austria and Italy. As mentioned in: G. Bryanski, ‘Russia seeks to speed up South Stream with new deals’ (15 May 2009) <http://uk.reuters.com/article/2009/05/15/uk-southstream-sb-idUKTRE54E1ZL20090515> (18 November 2015).

As Paolo Scaroni said during his visit in Kiev, Ukraine: “*The EU cannot have its cake and eat it, too.*”⁴. Scaroni, the chief executive of the Italian energy company ENI (Europe’s fourth-largest energy company), met with the Ukrainian minister of Energy Yuri Prodan on 27th April 2014, a month after the annexation of the Crimea. Scaroni was asked to represent the EU energy interests in a stable energy relationship on the European Union’s eastern borders. Together with Prodan he discussed ways to supply more gas to Ukraine from sources other than the Russian majority state-owned energy company Gazprom. Scaroni’s statement noted inconsistency in the EU’s behaviour in its energy relationship with Russia. On one hand the EU showed force in condemning the actions of Russia, issuing sanctions to hurt the Russian economy. Scaroni went to Ukraine as a representative of EU and US energy interests, to aid Ukraine in the crisis. On the other hand the EU continued to be heavily reliant on Russian gas, just like Ukraine. The South Stream project would increase this energy interdependency even further.

The Italian ENI was one of the European partners for the construction of the South Stream, whilst the project was led by the Russian majority state-owned company Gazprom.⁵ For Scaroni it was just as well a difficult position. He showed support for the new Ukrainian government as one of the official advisors for EU and US energy interests, thus condemning Russian actions. However, at the same time his company was involved in extending the EU energy dependency on Russia with the South Stream project. “*I just tell them that you cannot keep on shouting and being inconsistent between what you say and what you do.*”⁶, said Scaroni, despite displaying this same inconsistency. The EU wants to lessen its dependency

⁴ S. Reed and J. Kanter, ‘A European Energy Executive’s Delicate Dance Over Ukraine’ (version 27 April 2014) <http://www.nytimes.com/2014/04/28/business/international/a-european-energy-executives-delicate-dance-over-ukraine.html> (17 March 2016).

⁵ L. Nikitina, ‘Nord Stream and South Stream as innovative projects, their impact on the energy sector environment and policies of the European Union’ in: *Rocznik Integracji Europejskiej (Yearbook of European Integration) VIII* (Poznań 2014) PDF E-Book via: <http://rie.amu.edu.pl/wp-content/uploads/2015/01/rie-2014-8-377.pdf>

⁶ Reed, Kanter, ‘A European Energy Executive’s Delicate Dance Over Ukraine’.

on Russian gas, but nonetheless wants access to that same cheap Russian gas. These two opposing voices within the EU will be an important part of this thesis.

An informal plan for a gas pipeline circumventing Ukraine had already been formulated in 2007. The project became an official agreement between member states and Russia in 2009.⁷ It would have been up to the energy companies of the Italian ENI and the Russian Gazprom to oversee construction of this multibillion euro project. The gas pipeline would have stretched from Russia, under the Black Sea, through Bulgaria and then branching out across Romania, Greece, Serbia, Hungary, Austria and Italy.⁸ Despite clear plans and despite that construction had already started, the pipeline never came to be. In November 2014 Scaroni's ENI considered the South Stream to become a risky investment. The future of the gas pipeline became more and more unclear. His company stated it was no longer willing to invest more than €600 million, despite costs indicating that investments up to €2.4 billion would be needed to complete the South Stream.⁹ This uncertain investment climate was created due to a number of circumstances.

1. Firstly, the Ukrainian crisis caused sanctions and counter-sanctions to be imposed between the EU, the US and Russia. Threats of further, tougher sanctions made a secure supply of Russian gas seem questionable.¹⁰
2. Secondly, there was international pressure to support Ukraine by halting the South Stream project. Especially pressure from the US on partaking member states within

⁷ G. Bryanski, 'Russia seeks to speed up South Stream with new deals' (15 May 2009)

<http://uk.reuters.com/article/2009/05/15/uk-southstream-sb-idUKTRE54E1ZL20090515> (18 November 2015).

⁸ See appendix for an illustration of this route through the countries.

⁹ Redazione ANSA, 'Eni could leave South Stream' (version 4 November 2014)

http://www.ansa.it/english/news/business/2014/11/04/eni-could-leave-south-stream_3b61daea-cd9f-4adb-b2e3-939a6bb4deb8.html (15 December 2015).

¹⁰ O. Poole, 'Ukraine crisis: Moscow threatens to cut gas supplies to Europe in retaliation for sanctions' (23 March 2014) <http://www.independent.co.uk/news/world/europe/ukraine-crisis-moscow-threatens-to-cut-gas-supplies-to-europe-in-retaliation-for-sanctions-9210275.html> (14 March 2016).

T. Bawden, 'Fear over Russian gas switch-off sees EU states stockpile supplies' (11 September 2014)

<http://www.independent.co.uk/news/world/europe/fear-over-russian-gas-switch-off-sees-eu-states-stockpile-supplies-9727466.html> (14 March 2016).

the EU signalled an uncertain future for the project.¹¹ If the South Stream was completed, Ukraine would lose its position as a strategically important transit country. Ukraine would lose an essential leverage it had against Russia.

3. Thirdly, the European Commission opposed the plans of Gazprom. Judicially, they considered South Stream to contradict the laws of the Third Energy Package.¹² A more political motivation would be that the creation of the South Stream project would hamper their ambitions for further energy policy integration.

This paper will primarily focus on the third point, which showcases the friction between intergovernmentalism and supranationalism within EU energy policy. The European Commission (EC) was an interesting actor in this casus. They have their own energy vision, which at times contradicts with the energy vision of member states (MSs). The EC has stated that the creation of an Energy Union is to be among its top priorities, in order to maintain energy security for the Union.¹³ Such an Energy Union requires the full integration of energy sectors across the EU. This would mean a more supranational approach to energy, with the EC having extensive control over internal (and increasingly external) markets of the EU.

MSs are reluctant to relinquish their control of energy. As energy is essential for the economies and general functioning of MSs, surrendering this control means relinquishing a sensitive part of their sovereignty. It could possibly even force MSs to commit to a Common Foreign and Security Policy, as the security of one state becomes interlinked to the security of another. Whilst MSs might prefer a long term bilateral energy agreement with a nation like Russia, this contradicts the realization of an Energy Union. Such long term individual member state commitments hamper the full integration of energy sectors, as the long term contracts are not easily changed or stopped. These conflicting interests also showed themselves in the discussions regarding South Stream, and the eventual cancellation. The

¹¹ G. Ashton, 'How the Russia-Ukraine gas dispute affects the EU' (Version 14 August 2015)

<http://www.investopedia.com/articles/investing/031215/how-russiaukraine-gas-dispute-affects-eu.asp> (14 March 2016).

¹² J. Dempsy, 'Europe's Energy Strategy and South Stream's Demise' (Version 4 December 2014)

<http://carnegieeurope.eu/strategieurope/?fa=57386> (16 March 2016).

¹³ European Commission, *Commission priority. Energy Union: Making energy more secure, affordable and sustainable* (20 October 2015) http://ec.europa.eu/priorities/energy-union/index_en.htm (24 October 2015).

cancellation of South Stream can be seen as part in a series of worsening relations between the European Union and Russia. However, this research will primarily portray a casus regarding the energy integration within the European Union. There is a growing scarcity of traditional energy resources and there are difficulties in implementing sustainable, renewable energy resources. This casus helps portray the agency of an increasingly political EC, which slowly increases its control over both the internal and external dimensions of energy policy of the EU.

Debate

In the debate about European integration there has been much discussion about the driving forces of this integration. Are it the MSs that dictate the integration, or are supranational institutions also influential? As this thesis is about the agency of the European Commission, the level of influence supranational institutions have is an essential part of the casus. A famous author in this 'intergovernmental versus supranational' debate is the realist Stanley Hoffmann. In his influential work '*Obstinate or obsolete? The fate of the nation-state and the Case of Western Europe*'¹⁴ he stated that institutions are not a driving force for European integration. MSs will always cling to their agency on sensitive areas of policy, These high politics areas include the basis of sovereignty, like security and justice. Energy is partially economic, but also essential to the functioning of a nation. For this reason energy is also a high politics area. MSs will not give up their sovereignty without the ability to pull out to their commitment without cost. European integration will mostly take place on economic levels according to Hoffmann. High politics will remain within the control of the MSs. Another intergovernmentalist thinker is John Mearsheimer. In his article '*Back to the Future: Instability in Europe After the Cold War*' he clarified his neorealist view on European integration¹⁵ According to Mearsheimer European integration took place because of the balance of power in international relations. The European states banded together in order

¹⁴ S. Hoffmann, 'Obstinate or obsolete? The fate of the nation-state and the Case of Western Europe' in *Tradition and change* 95 (1966) 3, 862-915.

¹⁵ J. Mearsheimer, 'Back to the Future: Instability in Europe After the Cold War', in *International Security* 15 (1990) 4, 5-56

to defend against the common threat of the Soviet Union. Without this threat, extensive European integration would not be deemed necessary by the participating MSs. It are the MSs who dictate the tempo and depth of integration. Without a common need or threat, there will be no further integration.

Pierson is an influential author who adheres a historical institutional approach. He states that institutions have limited autonomy in his influential work *'The path to European integration: A historical institutionalist analysis'*.¹⁶ This creates the possibility for more supranational actors within European integration. These institutions confirm their agency when they use 'gaps' in policy to further their own goals. Unexpected consequences and the limited timeframe of elected regimes allow these gaps to come into being. Nations do not always succeed to close these gaps, thus allowing institutions to increase their presence and influence. Pierson's theory will be examined more in-depth in chapter 1 of this thesis. Thomas Maltby uses elements of Pierson to explain the role of the EC in the development of a common European external energy policy. Thomas Maltby works as a lecturer in International Politics at the Kings College, London.¹⁷ He specializes in energy policy, specifically the agency of smaller actors in the development of policy. The theoretical framework of this thesis will be a case study based on Thomas Maltby's *'European Union energy policy integration'* article.¹⁸ In his paper Maltby combines theories of John Kingdon and Paul Pierson about the creation and implementation of energy policy. Maltby identifies a variety of legal gaps, allowing an increasingly supranational energy policy where the EC takes a more leading role. The ultimate goal of the EC is successful policy entrepreneurship. This policy entrepreneurship means that the EC manages to push its preferred policy on the agenda and enacts it into law. Policy entrepreneurship is the way an institution like the EC (which has the right of initiative for policymaking) can push for its own agenda. This gives

¹⁶ P. Pierson, 'The path to European integration: A historical institutionalist analysis.' *Comparative Political Studies* 29 (1996) 2, 123–163.

¹⁷ Kings College London, 'Academic Staff (A-Z), Tomas Maltby' (version 15 May 2016)
<http://www.kcl.ac.uk/sspp/departments/politiceconomy/people/academic/maltby.aspx> (15 May 2016).

¹⁸ T. Maltby, 'European Union energy policy integration: A case of European Commission policy entrepreneurship and increasing supranationalism', *Energy Policy*, 55 (2013) 435–444

the EC a level of agency, Maltby stresses that this agency is limited and the policy entrepreneurship is often small scale or fails to be achieved. However, over time the EC manages to push its boundaries, increase its institutional presence and enact preferred policy. The theoretical framework will be further explained in the first chapter.

There has been a variety of studies regarding the South Stream before it was cancelled, often as analyses on the implications on European energy security.¹⁹ These studies often take a (neo)realist approach, emphasizing the bilateral essence of the South Stream project and the consequences for the energy relationship between EU member states and Russia. MSs are portrayed with much agency, changing their positive vision on the South Stream project after the Russian annexation of the Crimea. The pressure of the United States of America is also presented, mingling in the geopolitical landscape of Europe. The agency of the European Commission is limited in these texts, often seen as no more than a bureaucratic force which opposed and prolonged the construction of the South Stream.

This does not offer an encompassing vision on the role of the EC, as its agency is more complex than solely bureaucratic. Opinion pieces written after the cancellation of South Stream tried to pinpoint a winner in this clash of interests.²⁰ However, a winner is not easily pinpointed as the full outcome of the South Stream project is yet unknown. A possible rerouting of the pipeline through Turkey was proposed by Russia after the cancellation but this project does not have a certain future either.²¹ It is possible that an adapted version of

¹⁹ i.e. Pavel Baev and Indra Øverland, 'The South Stream versus Nabucco pipeline race: geopolitical and economic (ir)rationalities and political stakes in mega-projects', *International Affairs* 86 (2010) 5, 1075–1090. Andreas Goldthau, *The geopolitics of natural gas the politics of natural gas development in the European Union* (Harvard 2013) PDF E-book <http://belfercenter.ksg.harvard.edu/files/MO-CES-pub-GeoGasEU-102513.pdf>,

²⁰ i.e. D. Bechev, 'Bulgaria's turn to the West' (version 19 January 2015) <https://euobserver.com/opinion/127260> (20 December 2015).

Judy Dempsey, 'Europe's Energy Strategy and South Stream's Demise'.

²¹ Alexey Kudenko, 'Turkey and Russia Halt Negotiations Over Turkish Stream' (version 3 December 2016) <http://sptnkne.ws/akPp> (2 April 2016).

the South Stream will still be constructed²², but this is difficult to predict. Whilst literature searches for a ‘winner’ in the EU-Russia energy relationship, it is important to note that the EU is not a united front in energy policy. MSs have differing preferences and the EC has its own vision of an energy future. This study will look at the events as they unfolded within the EU, rather than the external dimension with Russia. Looking inward can reveal much about the development of external energy policy within the EU.

Research question

The research question of this thesis is as follows: To what extent did the European Commission showcase successful policy entrepreneurship in the cancellation of the South Stream?

In order to tackle this question, three sub-questions are formulated. Besides these sub-questions, there are eight criteria that need to be answered. The criteria consist of yes-no questions that help determine whether the EC showcased successful policy entrepreneurship, just as Maltby identified the EC to showcase it in previous events.

The first sub-question is: What were the preferred energy policies of the MSs and the EC following the gas disruptions and the start of the South Stream project? This sub-question will set the context for further analysis. The gas disruptions that started in 2006 influenced the EU-Russia energy relationship. When Russia tried to punish Ukraine by stopping gas deliveries to the country, this hurt the EU energy security as well due to the infrastructure. Maltby identifies gaps that came into being due to the gas disruptions, Connected to this sub-question, three criteria will be answered. (1) Do preferred energy futures of the EC and MSs contradict each other? If MSs and the EC share the same ambitions for energy policy, there is no potential conflict and thus no need for a specific policy window for the EC. The EC would not need to exploit the situation. In order for the EC to show policy entrepreneurship, the preferred energy policies need to differ between MSs and the EC. (2) Were there possible

²² Standartnews, ‘A hub instead of a pipeline I: Bulgarian PM comes up with a plan on how to revive the South Stream’ (version 11 December 2014)

http://www.standartnews.com/english/read/a_hub_instead_of_a_pipeline_i_bulgarian_pm_comes_up_with_a_plan_on_how_to_revive_the_south_stream-6663.html (28 December 2015).

policy gaps that allowed the EC to position itself more influential than expected? Maltby stresses the importance of gaps that allowed the EC to enact more influence than expected by the MSs on energy policy. It is through these gaps that the EC was enabled to showcase limited policy entrepreneurship according to Maltby. For this casus to prove Maltby's theory, there needs to be a gap the EC can exploit. (3) Was there disagreement regarding the South Stream within the EU? If there was no disagreement about the South Stream, the EC would not be 'exploiting' a gap and showcasing policy entrepreneurship. Just like with the preferred energy policies, there need to be different ambitions. In this disagreement, the EC needs to prove it can enact its preferred agenda.

The second sub-question is: What factors played a role in the cancellation of the South Stream? For the research question of this thesis, it is to be expected that the EC played a role in the cancellation. However, there were a multitude of other factors that need to be considered as well. This nuances the influence of the EC in the South Stream project. For this sub-question, three criteria will be answered. (1) Did existing legal framework clarify the disagreement? In Maltby's theory there needs to be room for the EC to manoeuvre. If existing legal framework already clarifies the conflict, there is no possibility or need to make use of policy gaps and there is no policy window that opens for the EC. Existing legal framework needs to be unsatisfactory for Maltby's theory to be confirmed. (2) Did disagreements regarding the South Stream disrupt the project? There were a multitude of factors that determined the end of the South Stream. For the EC to show policy entrepreneurship, the project needs to end due to disagreement about the South Stream. If the project was cancelled due to financial troubles or diminishing gas markets, this does not show an important role for the EC. In order for Maltby's theory to be confirmed, the EC needs to be able to take a limited political stance. This is only possible if there is disagreement about the South Stream. (3) Were there other factors that determined the cancellation of the South Stream? As stated, there are more potential reasons that caused the end of the South Stream. In order to showcase successful policy entrepreneurship the EC needs to show that it achieved its preferred policies through merit, and not through luck. Therefore it needs to show that it had an important role in the cancellation of the South Stream.

The third sub-question is: What did the EC achieve in the period of bargains after the cancellation of the South Stream? Looking at the aftermath of the cancellation will reveal

what the achievements of the EC were. If Maltby's theory is correct it should showcase that the EC managed to use the policy window to push for its preferred energy policies. The cancellation of the South Stream can be seen as one of these preferred policies, but the annexation of the Crimea allowed the EC to push its agenda further than the end of the project. The EC also tried to push policy to prevent projects like the South Stream in the future. It wanted a position of oversight, where projects like the South Stream would need to be approved by the EC before construction could start.²³ With this sub-question, two criteria will be answered: (1) Was the situation resolved in clear consensus? There were many different actors in the South Stream project and many were surprised and disappointed by the sudden cancellation of the project. It is important to understand how the MSs reacted. If they accepted the EC proposed policies in the aftermath this can showcase successful entrepreneurship. If they blame the EC for the fate of the project and refuse to cooperate, any successful entrepreneurship would be very difficult. For Maltby's theory to be confirmed there needs to be agreement, but it should not be an easy agreement. There should be different preferences and the reluctant agreement about the solution. Otherwise it is not so much successful policy entrepreneurship of the EC, but rather MSs enacting their preferred policy. It should be the EC dragging or convincing MSs into an agreement, not the other way around. (2) Did the EC manage to achieve its preferred policies? For successful policy entrepreneurship, the results matter. It is unlikely that the EC achieves its absolute preferences, but there should be progress towards the ambitions of the EC. This policy advancement is essential for Maltby's theory.

Together these criteria will answer to what extent the European Commission showcased successful policy entrepreneurship in the cancellation of the South Stream.

Method

As this thesis follows Maltby's methodology, it approaches the South Stream project as an encompassing historical institutionalist study. Pierson's gaps within the legal framework are examined by researching the creation of the Third Energy Package and the eventual use of

²³ European Commission, 'Intergovernmental agreements in energy' (Version 16 February 2016)

http://europa.eu/rapid/press-release_MEMO-16-309_en.htm (28 April 2016).

the Third Energy Package by the EC to block the South Stream project. Literature for this subject consists of press releases and articles. Pierson's vision on gaps in his influential article regarding European integration will be used to identify and detail the origin and consequences of these policy gaps. Kingdon's theory will be used to identify the policy windows and explain why these policy windows open for the EC. If the EC manages to successfully exploit these policy windows to push their preferred energy policy, then the EC achieved successful policy entrepreneurship. The theoretical framework of this thesis will be further elaborated in the first chapter.

To answer whether the European Commission displayed Kingdon's successful policy entrepreneurship, two elements are essential to know. Firstly the position of the European Commission in the cancellation needs to be clarified in order to identify potential entrepreneurship. Secondly, the term 'successful' needs to be defined within the European Commission's agenda. For this, literature regarding a possible European energy future is used. This literature is provided by statements of the European commission and think tanks.²⁴ Insight-E is an example of a think tank that has been tasked by the EC to support the analysis of a unified European Energy Union.²⁵ In order to understand the agenda of the European Commission, the institutions preferred Energy future needs to be understood. Primary sources revealing the stance of the Commission will be important to determine the stance of the EC. This is why sources of the European Commission and supporting think-tanks are used in this thesis. These are the policy ambitions of the EC. Policy entrepreneurship should work towards these ambitions. The sources especially focus on the ambitions of the Barosso Commission, as this Commission led by José Manuel Barroso worked from 2004 until November 2014.²⁶ This is the timeframe in which the South Stream

²⁴ i.e. Luca Franza, 'From South Stream to Turk Stream. Prospects for rerouting options and flows of Russian gas to parts of Europe and Turkey' *CIEP Paper 1* (2015) 5.

²⁵ Marie-Claire Aoun and Quentin Boulanger, 'Strengths and weaknesses of the European Union gas security of supply', *Hot Energy Topic 1* (2014) 1, 1-8. PDF E-book:

http://www.insightenergy.org/ckeditor_assets/attachments/28/het1_-_final.pdf.

²⁶ European Commission, 'José Manuel Durão Barroso' (Version 25 January 2018)

http://ec.europa.eu/economy_finance/bef2011/speakers/jose-manuel-barroso/index.html (18 May 2011).

project started. In November 2014 the Juncker Commission (led by Jean-Claude Juncker) replaced the Barosso Commission.²⁷ A month later, the South Stream was cancelled. In the process of bargains after the cancellation it is important to look at what the Juncker Commission managed to achieve. In total eleven direct sources from the EC are used. Besides the EC, two supporting think tanks are also used.²⁸ Together, these sources clarify the ambitions and preferred policies of the EC. Secondary literature is used to analyse the honesty of these ambitions of the EC. The potential benefits and goals of a energy union have been examined by a variety of academics and think tanks.

The European Parliament (EP) is also used as a primary source. Because of the sensitive nature of energy policy, the EP has no direct influence on external European Energy policy. The South Stream project was not a project that passed through the EP and Members of the European Parliament (MEPs) could vote on. Despite this, the European Parliament can raise awareness and show its political stance to the European Commission and the Council of the European Union. In the case of the South Stream, there were a variety of Questions the EP filled to the EC. These written questions and answers can show the political climate of the EP, but especially show the perspective and ambitions of the EC as the EC defends their actions. Three joint motions for a resolution were also submitted by MEPs of the ECR, ALDE, Verts/ALE and PPE parties. These motions were a response to the annexation of the Crimea in 2014. The resolutions called for the cancellation of the South Stream, but no real resolution was drafted in the EP. However, these joint motions do show a shift of perception of the South Stream project. In total this thesis uses nine primary sources from the European Parliament.

²⁷ European Commission, 'Jean-Claude Juncker' (Version 25 January 2018)

https://ec.europa.eu/commission/commissioners/2014-2019/president_en (25 January 2018).

²⁸ These are the Delors-Institute and Insight-Energy:

S., Andoura and J. Vinois, *From the European Energy Community to the Energy Union - A new Policy Proposal* (Brussels 2015). PDF E-Book: <http://www.institutdelors.eu/media/energyunion-andouravinois-jdi-jan15.pdf>.

Marie-Claire Aoun and Quentin Boulanger, 'Strengths and weaknesses of the European Union gas security of supply', *Hot Energy Topic* 1 (2014) 1, 1-8. PDF E-book:

http://www.insightenergy.org/ckeditor_assets/attachments/28/het1_-_final.pdf.

The Council of the European Union did not interfere much with the South Stream project, Whilst the Council represents the MSs directly, the South Stream was treated by Russia as a bilateral project. Thus, participating MSs dealt directly with other participating MSs and Russia on a bilateral basis. For this thesis, two relevant summaries of a meeting of the Council for Industry, Research and Energy are used. These meetings show a more intergovernmental approach to the project. A briefing note regarding the importance of the South Stream is also used. The Council also adopted a conclusion on the Ukraine Crisis. This conclusion showcases a turning point in the perception of MSs about the energy relationship with Russia and the strategic importance of Ukraine. In total four sources from the Council are used in this thesis.

Some statements and information is used from Gazprom, but this is limited. The companies involved with the South Stream project did not reveal much about their finances or ambitions. This is understandable, for the companies do not want to risk revealing information to competitors or release potentially damaging information to their investors about the multi-billion dollar projects. In total, three sources are used from Gazprom. As the project was treated as a bilateral deal, the project was primarily handled by national governments. However, the participating national governments and parliaments were not always heavily involved in the project. For instance, the Italian government treated the deal from a market-liberal approach and let the energy company ENI handle the project. The scope and language barrier prevents a full study of the way national governments of participating MSs handled the project. Especially Hungary and Bulgaria had expensive governmental attention for the project. Fortunately there are press sources that cover the developments of energy policy in the participating MSs. However, because of the scope and language these developments cannot be assessed from a primary source.

In structure this thesis will follow the chronological narrative of the South Stream gas pipeline, starting in 2007. Bargains between MSs and the EC will be examined and results until 2017 will be taken into account. The work will be divided in four chapters. The first chapter will provide a more in-depth theoretical framework for the thesis. This framework can then be used to understand the events of the South Stream. The other three chapters will each answer one of the sub-questions of this thesis.

In the second chapter the energy visions of the MSs and the EC will be shown. The chapter will answer what the preferred energy policies of the MSs and the EC were, following the gas disruptions and the start of the South Stream project, This chapter presents will also show how the gas disruptions influenced energy policy. This influence of energy policy would become a potential policy window for the EC. A gap emerged between the intended effects MSs had with the Third Energy Package and the way the EC was able to use the Third Energy Package. The time period of this chapter is from 2007 to 2013. In this time period the South Stream project was conceived and the difference between the preferred energy policies of participating MSs and the EC became apparent.

The third chapter will answer what factors caused the cancellation of the South Stream. This chapter focuses on 2013-2014. The annexation of the Crimea was an essential turning point for the South Stream, but a multitude of factors played an important role in delaying the construction of the pipeline.

The fourth chapter answers what the EC achieved in the period of bargains after the cancellation of the South Stream. This process is analysed for the years 2015 until 2017, but it is an ongoing discussion that has yet to reach a definitive conclusion. In this process of bargaining after the sudden cancellation, a policy window opened for the EC.

In the conclusion the results of the analysis will be combined to answer whether the EC managed to exploit the opposition, cancellation and aftermath to the South Stream project and if this is an example of successful policy entrepreneurship by the European Commission.

CHAPTER 1: THEORETICAL FRAMEWORK

This first chapter details the theoretical framework of this thesis. As mentioned in the introduction, this thesis will follow Thomas Maltby's 'European Union energy policy integration' article in method. Just as in Maltby's article, this thesis will present a vision on energy policy in which a combination of the theories of John W. Kingdon and P. Pierson are used. Applying these theories on the casus of the South Stream will show the interplay between MSs and the EC in determining the energy future of the EU.

1.1 Kingdon's converging streams and policy windows

John W. Kingdon was a Professor of Political Science at the University of Michigan in Ann Arbor at the time that he worked on his influential work *Agenda, Alternatives, and Public Policies*.²⁹ In this work, Kingdon tries to explain why some policies remain unrealised, while some are passed and become official policy. Kingdon's theory on policy entrepreneurship is used to showcase how a policy window forms for the EC.³⁰ This policy window is an opportunity to enact a preferred policy. If an institution can successfully exploit this opportunity, it has enacted successful policy entrepreneurship. Three streams are identified in his work, when these streams converge a window of opportunity opens for policy change.

(1) The first stream is the problem stream.³¹ Problems are policy issues which are deemed urgent enough to require attention. These problems are queued based on perceived priority.³² A change of regime or a crisis can change the perception of problems and thus change the order of the queue. Which problems do and which problems don't receive attention is somewhat unpredictable and the perceptions of problems can change. When attention focuses on a problem, actors need to act quickly

²⁹ University of Michigan, 'John Kingdon, Professor Emeritus' (version 15 May 2016) <https://lsa.umich.edu/polisci/people/emeriti/kingdon.html> (17 May 2016).

³⁰ J. W. Kingdon, *Agenda, Alternatives, and Public Policies, second edition* (London 1995) 166-168.

³¹ *Ibidem*, 197-198.

³² *Ibidem*, 167.

before the attention shifts to a new problem. Only a small number of problems receive the necessary attention to be acted upon. Presenting an already existing well-thought-out solution within the attention span of the problem, allows for a swift (re)evaluation of the problem.

- (2) The second stream is the policy stream.³³ It can be linked to the first stream. As ideas for policy change take a long time to evolve beyond their stage of a 'policy primeval soup' to a well-developed policy, widely acceptable solutions are formulated for anticipated future problems. These policies have been thought out beforehand, in order to decrease the disconnect between the wavering attention for the problem and the slow policy development. A policy can also be 'softened up' as actors sent proposals back and forth. Eventually, an acceptable policy can be formed. However, without willingness to adopt this policy, no policy entrepreneurship can be enacted.
- (3) This is where the third stream comes into play, the political stream.³⁴ In this stream policymakers need the motive and opportunity to turn a proposed solution into policy. Amendments can be made to fit more properly in the interests of the actors, befitting the 'national mood'.

When the streams are able to converge, there is a policy window. Usually, the political stream is the bottleneck. A proposed solution needs to be widely accepted by political actors in order to become an official policy. The political stream can take much time however, thus lessening the chance that wavering attention is still on the problem to make a proposal into a policy. Changes in the political stream can happen because of a change of administration or 'national mood'. It can also change because of a changed perception of the urgency of a problem. A problem deemed very urgent, might see a widely accepted solution that would not pass without this sense of urgency from the problem stream. In sum, Kingdon provides an explanation for why some policies are realised and some stay in a queue.

³³ Ibidem, 200-201.

³⁴ Ibidem, 198-199.

1.2 Pierson's gaps and path dependency

Paul Pierson's historical institutionalist perspective reveals potential gaps that allowed the EC to extend its capacities beyond what was originally envisioned for energy policy.³⁵ Pierson dictates a large role for the MSs and the intergovernmental system, but notes that the temporal dimension in politics can create unforeseen consequences for the MSs (so-called gaps).³⁶ Bargains are made between the MSs in order to tackle problems in a collective action, for instance by creating or strengthening certain institutions. These institutions lower uncertainty that normal collective action would have; it offers guarantees that the other members will dedicate themselves to action as well. These bargains are an important source according to Pierson, much can be learned from the discussions regarding these bargains. It offers insight into the motivations of the actors, more so than only looking at the final enactments of the bargains. This thesis will use Pierson's advice and will look at the bargains between the MSs and the EC (which will also be considered as an actor), rather than solely looking at the cancellation of the pipeline project. In his work *'The path to European Integration: A historical institutionalist analysis'* he answers two questions: How do gaps emerge in policy? And why are they so difficult to close?

Firstly, how do gaps come to be? Short time horizons and changes that take place between the conception of policy and the implementation can create gaps between the envisioned role of an institution and the actual role it fulfils.³⁷ The temporal dimension of politics is an important element in the unforeseen consequences policy can have. Envisioned policy can turn against the preferences of the creators as the political landscape continues to move. An actor might decide for a certain policy at a time of urgency, focusing on a short time horizon. This limited time horizon is reinforced by the limited time elected representatives serve.³⁸ They need a solution within their term; later gaps are of secondary importance to these representatives.

³⁵ Pierson, 'The path to European integration', 134.

³⁶ Ibidem, 145-146.

³⁷ Ibidem, 147

³⁸ Ibidem, 134-135.

Secondly, why is it difficult for MSs to close the gap once it has been created? Once a path has been chosen by the MSs, it is difficult to return to the previous status quo. Firstly, supranational actors try to resist relinquishing their new powers.³⁹ Workforces of the institutions do not wish to relinquish their jobs or the capacity of their institutional powers easily. Secondly, there are institutional barriers to reform. Institutions are created to be 'sticky' by the MSs, in order to hinder the process of institutional and policy reform.⁴⁰ Sticky institutions are meant to guarantee that the institutions cannot be abused beyond their targeted implementation. This bonding of institutions to a specific goal, however, also hinders the ability of the MSs to reform the institution if it performs in an unforeseen manner. Thirdly, there are sunk costs. MSs cannot simply stop using the institutions as there are costs involved when stepping out of the institutional framework. As MSs continue to invest in the institutional framework, these sunk costs increase. The MSs committed themselves to the institutions they created, path dependency forces them to continue committing or pay a heavy price.

1.3 Maltby's fusion of Kingdon and Pierson

Maltby tries to fit Pierson and Kingdon together. He sees the gaps of Pierson as the possibility to apply Kingdon's policy entrepreneurship. As Pierson explains how such gaps come to be and continue to exist, Kingdon explains how policy entrepreneurship can be attempted if the streams are present in this gap. In this vision, there is a trend of unforeseen consequences that allows the EC to be an actor, pushing for its policies to be enacted. Maltby notes that this agency of the EC is slowly increasing in the field of energy policy of the European Union. Maltby identifies three occurrences that aided the EC in displaying successful policy entrepreneurship and a shift towards more supranational governance as a solution⁴¹:

- (1) The enlargement of the EU in 2004-2007
- (2) Increasing EU energy imports and rising fossil fuel prices

³⁹ Ibidem, 151.

⁴⁰ Ibidem, 152-154.

⁴¹ Maltby, 'European Union energy policy integration', 439.

(3) The gas supply disruptions.

In his paper, Maltby concludes that the EC has successfully advanced its agenda for an Energy Union thanks to expanding legal framework in a reaction on the new occurrences. He states that the Third Energy Package is a good example of policy being created as a reaction to the new circumstances.⁴² As a policy it shows the existence of considerable gaps between the envisioned result of MSs and the actual outcome the EC has managed to achieve. In his paper Maltby barely touches on the South Stream project. Considering the developments regarding the South Stream and the important role the Third Energy Package played in this, it is an excellent case to evaluate Maltby's argument that the European Commission has successfully showed itself as an important actor in the shaping of energy policy in the European Union.

⁴² Ibidem, 441,

CHAPTER 2: POLICY WINDOWS, THE CREATION OF GAPS (2007-2013)

This chapter will investigate the start of the South Stream gas pipeline project and the introduction of the Third Energy Package in the EU. The time period of this chapter is from 2007 (with the conception of the South Stream pipeline and the Third Energy Package) until 2013 (when the EC actively started opposing the South Stream construction). Both the South Stream and the Third Energy Package (TEP) can be linked to the three occurrences Maltby identifies that caused a shift to a more supranational energy policy.⁴³ The 2007 enlargement of the EU caused greater dependence on Russian gas. The higher demand and prices of gas caused energy supply to receive more attention. The gas disruptions made the EU rethink its position in the EU-Russia energy relationship. Together these occurrences caused the problem, policy and political streams to converge and become the origin of the Third Energy Package. The TEP was to serve as a bulwark against potential overdependence on Russian gas. In the years after the TEP, the position of MSs on the EU-Russia energy relationship changed to be more nuanced. The urgency of the problem stream had declined over time as the situation normalises. For instance, the agreements to build the Nord Stream and South Stream gas pipelines were influenced by the gas disruptions but did not prevent the MSs to enact these deals with Russia. The manner in which the EC used the TEP has not changed however, thus creating a gap between envisioned policy and actual application.

This chapter will answer the first sub-question of this thesis: What were the preferred energy policies of the MSs and the EC following the gas disruptions and the start of the South Stream project? This sub-question will also reveal the answer to three criteria that test Maltby's theory. (1) Do preferred energy futures of the EC and MSs contradict each other? For Maltby's theory to be correct, there needs to be an opposing view between MSs and the EC. Otherwise the EC has no need to showcase policy entrepreneurship, as MSs and the EC can cooperate to enact the preferred policies. (2) Were there possible policy gaps that allowed the EC to position itself more influential than expected? There need to be possible policy gaps, otherwise the EC is not able to exploit the converging streams. (3) Was there

⁴³ Maltby, 'European Union energy policy integration', 439.

disagreement regarding the South Stream within the EU? Just as with the preferred energy futures, the MSs and the EC need to disagree about the South Stream. It is only in this disagreement that the EC can show its agency in policy entrepreneurship.

2.1 The gas disruptions

The consequences of threatened gas supply became apparent to MSs in January 2006, when Gazprom cut gas supplies to Ukraine due to disagreements about gas prices.⁴⁴ As Ukraine was an important transit route for many European gas importers, this dispute caused gas shortages in Eastern Europe. Later, similar disputes between Ukraine and Russia about pricing and transit fees in 2007, 2009 and 2010 also showed the weakened security of supply.⁴⁵ The EU cannot meet its energy needs without import. In 2013 about 53.2% of the consumed energy in the EU was imported from non-MSs.⁴⁶ The gas consumption of the EU amounted to 541 billion cubic metres (Bcm) that year.⁴⁷ 161.5 Bcm of this consumption was supplied by the Russian state-owned Gazprom.⁴⁸ This means that 30% of the consumed gas in the EU is provided by Russia. Around half of this imported gas follows the transit route through Ukraine.⁴⁹ In 2006 this was as much as 80%.⁵⁰ MSs in Eastern Europe like Romania and Bulgaria, are almost solely dependent on gas from the Ukraine transit route.⁵¹ With the gas disruptions starting in 2006, it became clear that the South Eastern European (SEE)

⁴⁴ S. S. Haghighi, *Energy Security. The external legal relations of the European Union with major oil and gas supplying countries*. Modern Studies in European Law XVI (Portland 2007) 357.

⁴⁵ Darbouche, 'Third Time Lucky?', 194.

⁴⁶ European Commission, 'Eurostat. Energy production and imports' (version 20 December 2015) http://ec.europa.eu/eurostat/statistics-explained/index.php/Energy_production_and_imports (23 December 2015).

⁴⁷ L. Franza, 'Outlook for Russian gas imports into the EU to 2025' CIEP Paper 2 (2016) 2B, 1.

⁴⁸ Gazprom Export, 'Delivery statistics, Gas supplies to Europe' (version 15 August 2016) www.gazpromexport.ru/en/statistics (18 August 2016).

⁴⁹ Franza, 'Outlook for Russian gas imports', 1.

⁵⁰ Franza, 'From South Stream to Turk Stream', 13.

⁵¹ M. Aoun and Q. Boulanger, 'Strengths and weaknesses of the European Union gas security of supply', *Hot Energy Topic*, 1 (2014) 1, 1-8, 1

region experienced strong vulnerability in its security of supply. As a relatively immature market (when compared to the more interconnected West-European market), security of supply has not yet been improved to a higher standard.⁵² The following illustration shows the extend of EU dependency on Russian gas. An stress test showing a potential Russian disruption of gas transit through Ukraine in 2014, caused severe energy shortages in the SEE region according to this impact assessment by the EC-supported think-tank E-Sight.⁵³



The Ukraine gas disruptions had three consequences. Firstly, there was renewed interest in the Nabucco gas pipeline. This concept for a Western-backed pipeline would transport gas from the Caspian region to SEE.⁵⁴ Secondly, Russia offered a solution with the South Stream gas pipeline. Thirdly, the Third Energy Package would come to contain measures to curb Russian influence on the EU markets. This was to guarantee a level of independence from Russian gas. The urgency of Kingdon’s problem stream was clearly increased due to the gas disruptions.

⁵² T. Smeenk, *Russian Gas for Europe: Creating Access and Choice. Underpinning Russia’s gas export strategy with Gazprom’s infrastructure investments* (PHD diss., Groningen 2010) 271.

⁵³ The illustration is based on: Aoun and Boulanger, ‘Strengths and weaknesses of the European Union gas security of supply’ on page 3. PDF E-book: http://www.insightenergy.org/ckeditor_assets/attachments/28/het1_-_final.pdf.

⁵⁴ Andoura and Vinois, *From the European Energy Community to the Energy Union*, 88.

The changing geopolitical landscape can be seen as a reason for reconsideration. The gas disruptions caused a renewed interest in the EU-Russia interdependence. As the political stream of the MSs deemed the EU-Russia energy relationship as less reliable, due to the attention generated by this problem, the possibility for a convergence of streams grew. Politics looked for a solution to the problem and had to turn to readily available policies to quickly react to the problem.⁵⁵ Besides the slow developing Nabucco gas pipeline, there were two other potential policies.

Firstly, there was the EC preferred solution of a more united European approach to energy policy. Energy was an essential part at the beginning the European integration with the European Coal and Steel Community in 1951.⁵⁶ However, MSs are reluctant to relinquish their influence on energy policy, as this has consequences for the external relations of the MSs. A common external energy policy is too much like a Common Foreign and Security Policy, it takes too much sovereignty from MSs to be acceptable for the members. The EC can create relatively extensive policies for the internal market, but the consequences for the external market need to be limited.⁵⁷ MSs want the supranationalist elements in energy policy to be limited. The Third Energy Package promised limited control over internal markets for the EC. It also allowed the EU to oppose Russian influences if these became too prevalent on the internal market.

A second solution to the problem of energy security, was the Russian promoted South Stream gas pipeline. Promising similar results as the Nabucco, MSs could profit from an increased security of supply with the new route circumventing Ukraine. Despite this, there would be no diversification of sources. Both solutions had their merits for MSs, which will be explained hereafter.

This problem stream consisted primarily of the endangered security of supply the EU experienced due to their dependence on Russian gas. Before the gas disruptions, this

⁵⁵ Kingdon, *Agenda, Alternatives, and Public Policies*, 199-200.

⁵⁶ E. Kuşku, 'Enforceability of a Common Energy Supply Security Policy in the EU: An Intergovernmentalist Assessment' *Caucasian Review of International Affairs* 4 (2010) 2, 146.

⁵⁷ F. Proedrou, *EU Energy Security in the Gas Sector Evolving Dynamics, Policy Dilemmas and Prospects* (Farnham 2012) 52.

interdependency was not viewed so negatively. After the disruptions however, a seed of mistrust was placed. Attention turned to the issue of security of supply. Kingdon states that policymakers will have to act fast within the limited attention span for a problem.⁵⁸ This backdrop explains much of the energy policies of MSs and the EC. To understand the complex EU-Russia energy relationship properly, this interdependency has to be further explained.

2.2 Interdependency in the Russia-EU energy relationship

Besides Kingdon and Pierson, the interdependency theory of Keohane and Nye is also important to explain the agency of the EC. The interdependency theory does not explain the agency itself, but explains the complex background of the EU-Russia energy relationship. In order to understand the interactions between the MSs and the EC, the EU-Russia energy relationship needs to be understood properly. This relationship gives the motives for MSs and the EC to act in different ways; it is the backdrop for the play between the MSs and the EC. In their work *'Power and Independence'*, Keohane and Nye explain how their interdependency theory shows the mutual reliance between actors. In the case of the EU-Russia energy relationship, the EU is an energy consumer and Russia is an energy supplier.⁵⁹ As the gas supplier in the relationship, Russia relies on demand. In turn, the EU relies on a steady supply of gas. Interdependence sensitivity indicates the short-term effects before there is a chance to change policies. Interdependence vulnerability refers to the long-term effects if there is a possibility to change policies.⁶⁰

Placed into a matrix, this creates the following table⁶¹:

	Sensitivity	Vulnerability
Demand	Demand sensitivity	Demand vulnerability
Supply	Supply sensitivity	Supply vulnerability

⁵⁸ Kingdon, *Agenda, Alternatives, and Public Policies*, 197-198.

⁵⁹ R. Keohane & J. Nye, *Power and Independence. Third edition* (Minneapolis 2000) 9-11.

⁶⁰ Ibidem, 11-18.

⁶¹ Based on the matrix in: T. Casier, 'Russia's Energy Leverage over the EU: Myth or Reality?' *Perspectives on European Politics and Society*, 12 (2011) 4. 493-508, on 506.

When the energy relationship between Russia and the EU is placed in the interdependency theory of Keohane and Nye, it becomes clear that the EU experiences quite strong supply sensitivity and potential supply vulnerability.⁶² This quite strong supply sensitivity became clear with the gas disruptions of 2006. As the EU can still diversify its energy sources, it is not entirely bound to Russian gas and therefore only potentially vulnerable. The EU cannot, however, change its policies quick enough to prevent short-term shortages. The supply vulnerability of the EU is difficult to measure, because of the amount of actors within the EU. Depending on the perceived urgency of the problem, this supply vulnerability may be limited or severe. Russia is the largest gas supplier in the region, and the energy imports of the EU are considerable, so potential supply vulnerability is likely.⁶³ On the other hand, Russia experiences strong demand vulnerability and to some extent sensitivity. As the EU is by far the largest importer of Russian gas, this creates a vulnerable interdependency.⁶⁴ In order to prevent damage, Russia needs to maintain or increase this relationship with its main buyer: the EU.

The European Commission is trying to diversify its potential sources.⁶⁵ Using this theory it can be said that the EC experiences the energy security relationship with Russia as a negative interdependency, instead seeking to diversify its energy sources to decrease the EU's dependency on Russian energy imports.⁶⁶ Russia considered it to be a positive relationship, experiencing strong demand vulnerability, as most of its gas is sold to the EU market.⁶⁷ MSs that partook in the South Stream project consider the interdependent bilateral relationship between themselves and Russia to be positive as well, as shown by their willingness to increase their dependency on Russian gas. Thus, they disagree with the EC

⁶² Casier, 'Russia's Energy Leverage', 506.

⁶³ Ibidem, 506.

⁶⁴ Ibidem, 506.

⁶⁵ H. Darbouche, 'Third Time Lucky? Euro-Mediterranean Energy Co-operation under the Union for the Mediterranean' *Mediterranean Politics* 16 (2011) 1, 193-211, on 194.

⁶⁶ T. Prouza, 'EU urgently needs real energy union' (Version 26 February 2015) <https://euobserver.com/opinion/127659> (12 March 2016).

Casier, 'Russia's Energy Leverage', 499.

⁶⁷ Casier, 'Russia's Energy Leverage', 506.

regarding the interdependency relationship with Russia. This disagreement constitutes the backdrop for the contradiction between the intergovernmental MSs and the supranational EC.

2.3 Russia's positive interdependency

Whilst Russia had its reputation as a reliable gas supplier damaged due to the gas disruptions, it also offered a possible solution. The South Stream project was founded largely by the Russian Gazprom and the Italian ENI energy companies. Gazprom held the majority of the shares in the project, just over 50%. Later, the German Wintershall and the French EDF also became involved in the construction of the pipeline within the EU. They both held a share of 15% in the pipeline, ENI held 20%.⁶⁸ For the partaking member states this gas pipeline meant an improved security of supply, whilst Russia has an improved security of demand as the confidence of the MSs in Russia's capacity to deliver the gas would no longer be hampered by Ukraine. Ukraine would lose its strategic position as a transit country; no longer essential to reach many of the EU MSs. Circumvention was one of Russia's goals with the South Stream. A second goal was to keep Central and Eastern Europe dependent on Russian gas. Better access to the EU market and long-term supply contracts with MSs would increase this mutual dependency. A third goal of the South Stream was to undermine the Nabucco gas pipeline. As this pipeline would access the same market, the Nabucco would have diminished the Russian gas exports. Competition would also have potentially lowered the gas prices for SEE. Gazprom created an attractive alternative for the MSs to the slow developing Nabucco.

Unlike the markets for other fossil fuels, there is no clear global market for gas. The transport of natural gas is limited by geographical range and the infrastructure of pipelines

⁶⁸ Baev & Øverland, 'The South Stream versus Nabucco pipeline race', 1075.

J. Dempsey, 'Europeans Are Prolonging Their Dependence on Russian Gas' (version 8 May 2014) <http://carnegieeurope.eu/strategieurope/?fa=55538> (16 March 2016).

See also the illustration in the appendix of this thesis. This illustration provided by Gazprom shows which companies were responsible for which parts of the gas pipeline. It also shows a variety of options for the route of the pipeline.

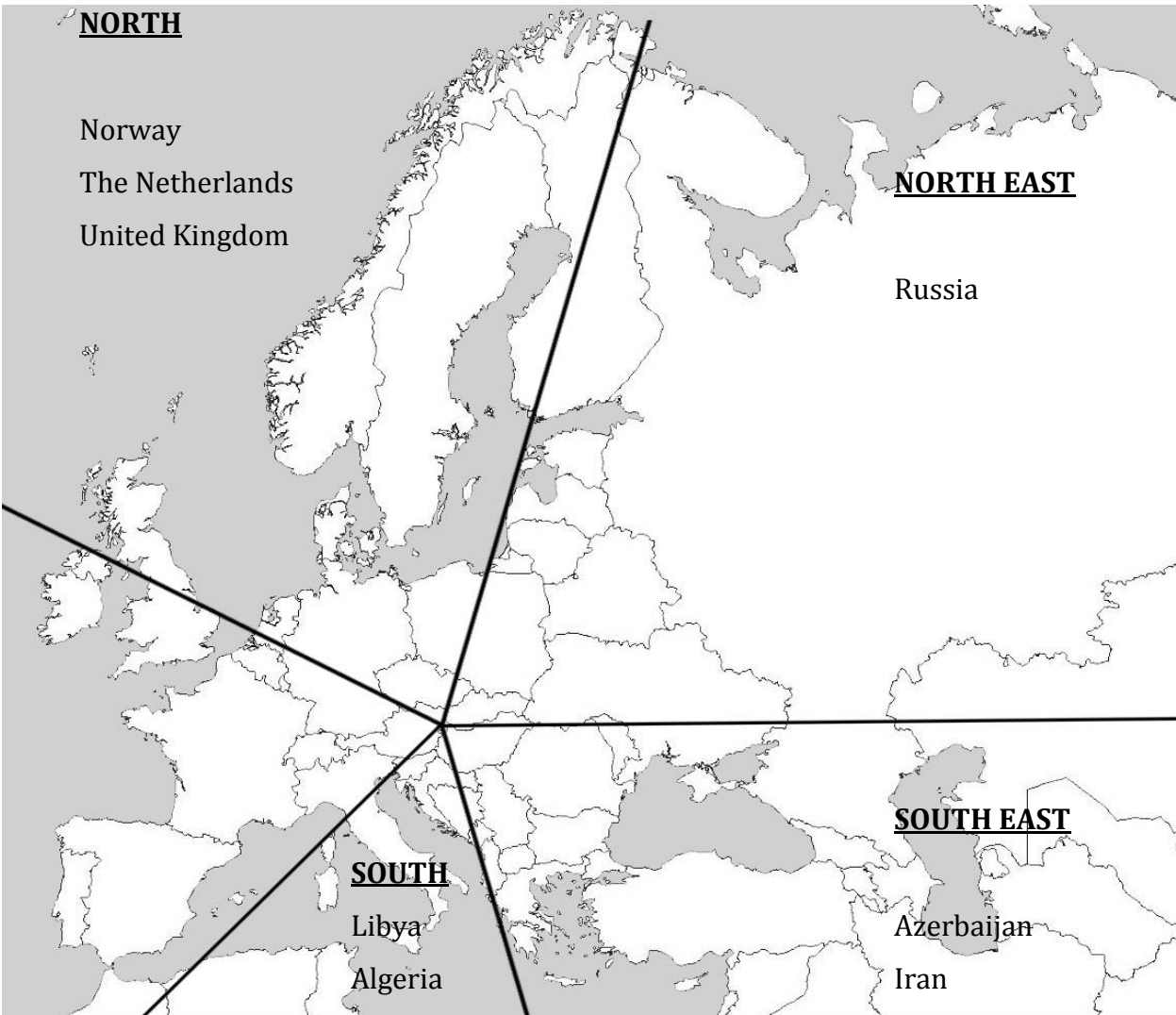
within this range. Rather than a global market, there are regional markets.⁶⁹ The SEE region has seen much growth in its gas consumption, reaching a total of 165 Bcm in 2008 and most likely continuing to grow.⁷⁰ Because of the geographic position of Ukraine and the present gas infrastructure, Ukraine maintained an essential role as a transit country. Russia has made a number of efforts to circumvent Ukraine. This varies from the Yamal-Europe pipeline in 1997 (crossing through Belarus to Poland and Germany), the Blue Stream in 2005 (a limited capacity pipeline from Russia to Turkey) and the Nord Stream in 2011 (crossing the Baltic Sea to North Germany). The South Stream is another attempt to diversify the routes of supply to the EU market.

For the EU, there are a variety of regional suppliers. In the north, Norway, the Netherlands and the United Kingdom provide a regional source of gas. In the South, Libya and Algeria export their gas to the EU. The west of the EU can be provided with gas via the pipeline infrastructure within the EU. In the north-east Russian gas overcomes the challenging distance with extensive long distance pipelines. SEE has no clear source of gas except Azerbaijan and Iran. Without the necessary long range infrastructure and because of the sensitive, complex relationship with Iran, these are not viable sources of gas. Russia was willing to provide SEE with gas, but had to use Ukraine as a transit country. The South Stream was meant to tackle this problem.

⁶⁹ EASI Working Group Paper, 'Energy as a Building Block in Creating a Euro-Atlantic Security Community' (version 3 February 2013) <http://carnegieeurope.eu/2012/02/03/energy-as-building-block-in-creating-euro-atlantic-security-community/ba6q#> (20 April 2016).

⁷⁰ Smeenk, *Russian Gas for Europe*, 273.

Illustration 2



When looking at the regional producers, this map gives an indication of the geographic difficulties the SEE gas market faces when trying to diversify. The South Stream would have been constructed from Southwest Russia, under the Black Sea, through Bulgaria and then branching out across Greece, Serbia, Hungary, Austria and Italy.⁷¹ At its furthest length, the pipeline would have ended at the Austrian gas hubs of Baumgarten. By volume, Italy and Romania are the biggest consumers of gas in SEE. But after being stored in the gas hubs in Austria, the Russian gas from the South Stream could also reach beyond the SEE.⁷² With a growing regional gas demand, the South Stream project was the favoured solution by

⁷¹ G. Bryanski, 'Russia seeks to speed up South Stream with new deals'.

⁷² Smeenk, *Russian Gas for Europe*, 274.

Russia. MSs were enticed by the prospects of cheap Russian gas. The EC did not publicly oppose the South Stream but was reluctant to show any support.

2.4 The EU's negative interdependency

The European Commission supposed to aid the MSs in achieving the Energy Strategy goals, but the Commission also has priorities of its own. In 2007 the Nabucco pipeline became one of the four priority projects in the Commissions efforts to diversify gas import sources.⁷³ The South Stream was a serious competitor to the Nabucco gas pipeline. Nabucco was supposed to supply gas from the Caspian gas resources to the EU, via Turkey.⁷⁴ This project would allow new partners to supply gas to the SEE, redusing the strong vulnerability of these MSs. However, the project was slow to materialize. It was being delayed multiple times due to uncertainties over supply, transit and investments, administrative obstacles, rising costs, and due to the competition from the South Stream pipeline. It is no coincidence that the EC listed Nabucco as a priority project, as this happened right after the gas disruption of 2006. This incident and the Ukraine-Russia price disagreements of 2007, 2009 and 2010 made the EC wary of the EU's energy interdependency with Russia.⁷⁵ Besides the gas disruptions due to the Ukraine transit route, the sudden suspension of Shell's environmental permit of the Sakhalin II gas plant further alerted the EC.⁷⁶ This politically motivated suspension was done to allow Gazprom a strong position within Russia's energy market and control all gas export from Russia. However, the incident further damaged Russia's reputation as a reliable energy partner and made the EU doubt Russia's intensions. The EU enlargements of 2004 and 2007 had already soured relations between the EU and Russia. Some of the new MSs were vocal supporters of a tougher stance against Russia.⁷⁷ At the same time, the energy dependency of

⁷³ Commission of the European Communities, *{SEC(2007) 12} Communication from the Commission to the European Council and the European parliament. An energy policy for Europe* (Brussels 2007) 9, PDF E-Book: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52007DC0001&from=EN>

⁷⁴ Andoura and Vinois, *From the European Energy Community to the Energy Union*, 88.

⁷⁵ Darbouche, 'Third Time Lucky?', 194.

⁷⁶ Haghighi, *Energy Security*, 357-358.

⁷⁷ Casier, 'Russia's Energy Leverage', 502.

the EU grew. Many new MSs relied heavily on imported Russian gas and solid fuels.⁷⁸ Some MSs were even almost solely dependent on Russia for their gas supply. This could give Russia influence over these MSs or create instability due to price disagreements. This new situation prompted the EC to search for possibilities to diversify its energy sources.

This effort of diversification was especially focused on the gas sector. The interdependency was high in this sector and the nature of supply and demand is less flexible for gas. Guarantees are essential for gas supply and demand. Unlike oil deliveries, gas deliveries cannot simply be stopped. The interconnected gas pipeline infrastructure showed its weaknesses during the Russia-Ukraine gas disruptions, affecting many EU member states.⁷⁹ The European Commission has stated that the creation of an Energy Union is to be among its top priorities, in order to maintain energy security for the Union. This is a politically controversial topic, as this would create a more supranational EC. Control over external energy policy is a sensitive political area. Because of the essential importance of energy, MSs are reluctant to release sovereignty in this area.

An Energy Union requires extensive integration of energy sectors across the EU. According to the EC it would allow the EU to take a united stance on the global energy market. Whilst MSs might prefer a long term energy agreement with nations such as Russia, this might contradict the realization of an Energy Union. Such long term individual member state commitments prevent or delay the full integration of energy sectors. Gas deliveries need these long-term agreements and clear guarantees for stability. The external dimension of ideas for an EU Energy Union, are therefore aimed at the gas market in particular. Oil does not need this much regulation as it can be treated on a more ad hoc basis, despite contributing a higher percentage in the EU energy mixture. The EC calls for “*A well-functioning and interconnected gas market with competitive and market-based prices*”.⁸⁰ This fits into their ambitions for an Energy Union. In 2009 an EU Regulation on security of gas

⁷⁸ Andoura and Vinois, *From the European Energy Community to the Energy Union*, 44.

⁷⁹ *Ibidem*, 29.

⁸⁰ European Commission Directorate-General for Economic and Financial Affairs (DG ECFIN), *European Economy. Member States' Energy Dependence: An Indicator-Based Assessment* (Brussels 2013) PDF E-Book: http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp145_en.pdf 85.

supply was adopted. This regulation established a common infrastructure and supply standard for the MSs. It also detailed emergency plans in case of supply disruptions.⁸¹ This shows the ability of the EU to adapt its policies when supply vulnerability is deemed urgent enough. An essential part of the envisioned Energy Union of the EC would be a common import pricing. This would create a demand based energy market in the region. Transparency is essential in this model, with diversification of energy sources to push for a consumer oriented market.⁸²

As Tom Casier states in his article *Russia's energy leverage over the EU* there is an energy paradigm difference between Russia and the EU that seems inherent to many of their clashes in energy.⁸³ Russia has a state-interventionist approach as they try to maintain their powerful position in a producer market. Bilateral long-term agreements guaranteeing gas supply are useful for Russia. The EC instead tries to create a 'consumer market'. This benefits the consuming EU, as they get an economically better deal and increase their energy security. The EC aims for the diversification of energy sources and common regulation of the energy market in a neo-liberal free market. Achieving an Energy Union would be the pinnacle of the EC's work in the energy field, as well as having extensive political implications. The pro-EU Delors Institute believes that such an Energy Union would protect the EU in such a way "*that no third country/company can threaten key EU energy assets and infrastructures or engage in targeted reductions of energy supplies.*"⁸⁴ The Energy Union could also function as a way to transition to renewable energy sources. It is an instrument towards a safer, more durable energy future according to the Delors institute.⁸⁵ The European Commission promotes the creation of this Energy Union. Stopping South Stream and prioritizing the Nabucco project to diversify energy sources supports this agenda.

Whilst MSs support the creation of a consumer oriented market (as there are mostly energy importers in the Union) there is discussion about how a common EU external energy

⁸¹ Andoura & Vinois, *From the European Energy Community to the Energy Union*, 58.

⁸² Prouza, 'EU urgently needs real energy union'.

⁸³ Casier, 'Russia's Energy Leverage', 505.

⁸⁴ Andoura and Vinois, *From the European Energy Community to the Energy Union*, 17.

⁸⁵ *Ibidem*, 18.

policy should be defined.⁸⁶ The Commission has long pushed for increased supranational powers in the internal energy markets, but always met with resistance from MSs who prefer to keep energy matters under their direct sovereignty.⁸⁷ The MSs assert that cooperation amongst the states is possible, should a crisis be dealt with. For them, there is no necessity to unite the divergent interest under a supranational entity. The Third Energy Package was another attempt to achieve a higher level of regulation and unification of the EU energy market. MSs accepted this package after the gas disruptions had caused the problem stream of the EU-Russia energy relationship to be reevaluated. Rather than choosing one specific policy, MSs allowed a multitude of policies to compete. Nabucco and the South Stream were considered positively, as both increase the security of supply for the EU. The TEP was also accepted for this reason. Despite the focus of the TEP on the internal aspects of the energy market, it also had ramifications for the external market.

2.5 The Third Energy Package as a gap

The European Commission was sceptical of the South Stream. It could make MSs more vulnerable by becoming more dependent on Russian gas, but it also delayed any possibility of an Energy Union. In energy there are three sectors: the upstream (exploitation and production), the midstream (transportation and storage) and the downstream (refining and processing). Russia provides the upstream and the EU conducts the downstream. Via the South Stream a Russian company like Gazprom could own the midstream within the internal European market. The EC feared this would make the EU too dependent on Russian gas and the power of the state-owned Gazprom. It was partially due to these fears that the Third Energy Package was conceived in 2007 and entered force in 2009.⁸⁸ The aim of the TEP was to create the envisioned consumer market with an integrated internal gas market across the European Union. This would allow lower prices and a strong market position according to

⁸⁶ Kuşku, 'Enforceability of a Common Energy' 148-150.

⁸⁷ P. O. Eikeland, 'The Third Internal Energy Market Package: New Power Relations among Member States, EU Institutions and Non-state Actors?', *Journal of Common Market Studies* 49 (2011) 2, 259.

⁸⁸ Casier, 'Russia's Energy Leverage', 506.

the EC.⁸⁹ The TEP was accepted by the MSs with few resistance. The recent gas disruptions had pushed them to search for solutions. The TEP demanded only limited further supranationalism on the internal markets. It allowed MSs to show force against Russia, but not actually prevent future projects with Russia to be hampered. Taking a stance against Russia was not the primary concern of the TEP, but the package was clearly also a reaction to this negative interdependency. The Third Party Access (TPA) principle was part of this reaction. TPA meant that national regulatory authorities control access of the pipeline network.⁹⁰ These authorities are to check on proper application of tariffs and prevent any abuse of dominance. Unbundling is an essential part of TPA. Unbundling means that the owner of a gas pipeline needs to allow third parties to use their network as well. This prevents Gazprom from controlling both the upstream and midstream in their gas relationship with the EU.⁹¹ Keeping the midstream out of Gazprom's control would guarantee that in times of need other gas could be transported through the pipelines, increasing the energy security.

MSs did not need to make a decision between the EC preferred and Russian proposed policies. MSs could accept the offer of Gazprom to build the South Stream whilst private companies helped fund the project. At the same time MSs supported the TEP to achieve a more consumer oriented market which could make a harder stance against Russia if needed. Both options would benefit the security of supply of the EU. However, the policies turned out to contradict each other. Unforeseen for the MSs, the TEP grew to become a more supranational policy that allowed opposition to the construction of the South Stream. In 2007 and 2009 the TEP seemed the proper response against the gas disruptions. The limited temporal dimension of the MSs caused unforeseen consequences.

In the years following the adoption and implementation of the TEP, it became apparent that a gap had arisen in this policy. Rather than a failsafe against Russian gas

⁸⁹ European Commission, 'MEMO/11/125, Questions and Answers on the third legislative package for an internal EU gas and electricity market' (version 2 March 2011) http://europa.eu/rapid/press-release_MEMO-11-125_en.htm?locale=en (7 May 2016).

⁹⁰ Ibidem.

⁹¹ Casier, 'Russia's Energy Leverage', 506.

disruptions, the EC started wielding the package as a weapon to implement their vision of security in the energy sector. Despite not openly opposing the South Stream, it was clear that the EC did not support the project.⁹² Russian control of the midstream and upstream combined with their ability to offer individual deals to the MSs, endangered the EU security of supply by making the EU overly dependent on Russian gas. EU Energy Commissioner Günther Oettinger stated his vision on the Russian position on 2 May 2013 in a meeting with then Polish Prime Minister Donald Tusk. “*The game of divide et impera or a game of this type proposed by Moscow cannot and will not be accepted by EU member states.*”⁹³, said Oettinger. Uniting the voices of the MSs into one would improve the energy security, but also cause a more supranational coordinating role for the EC. On 4 December 2013 Klaus-Dieter Borchardt, director for energy markets at the European Commission, gave a list of intergovernmental agreements which contradicted rules of the TEP.⁹⁴ Amongst these projects was the South Stream gas pipeline. Brochardt had asked MSs to send the intergovernmental agreements to Oettinger’s services, where the agreements were analysed. Brochardt chaired a meeting on 18 October with a Gazprom representative to discuss the breached TEP rules.⁹⁵ Gazprom’s president Medvedev showed no intention of changing the project to meet the EC’s demands. “*Nothing could prevent the construction of South Stream*”⁹⁶, Medvedev stated in reaction to the accusations of the South Stream not respecting the TEP rules. The Russian deputy minister for energy, Anatoly Yankovski, disagreed that TEP rules would apply for a transboundary project such as the South

⁹² A. Cañete (on behalf of the European Commission), ‘P8_RE(2014)009661 Question for written answer E-009661/14 to the Commission’ (version 9 February 2014) <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2014-009661&language=EN> (15 May 2016).

⁹³ Dempsey, ‘Europeans Are Prolonging

⁹⁴ Euractiv, ‘South Stream bilateral deals breach EU law, Commission says’

De Micco, *PE 536.413. A cold winter to come?*, 16.

⁹⁵ Euractiv, ‘South Stream bilateral deals breach EU law, Commission says’

⁹⁶ *Ibidem*

Stream.⁹⁷ Yankovski added that intergovernmental agreements, governed by international law, would prevail over legal norms such as the TEP rules that the EC tries to export.

When Borchardt addressed the members of the European Parliament he added the threat previously stated in the introduction: *“What I can say is the intergovernmental agreements will not be the basis for the construction or the operation of South Stream. Because if the member states or states concerned are not renegotiating, then the Commission has the ways and means to oblige them to do so. And South Stream cannot operate under these agreements.”*⁹⁸ If Russia would not adapt its plans, the EC would oppose its construction. At this point the European Union spoke in two voices. On the one hand it reacted to the Ukraine disruptions by creating a resilient TEP, to ensure proper internal control and not allow Russia more influence within the market. On the other hand they looked for a new deal like the South Stream to circumvent the Ukraine problem, causing them to be more dependent on Russian gas. The complex workings between the MSs and EC created an unclear vision of EU future plans.

2.6 Conclusion

In conclusion this chapter has shown that the three occurrences Maltby identifies for an increased push for supranational energy policy, also apply for the South Stream casus. The (1) enlargement of the EU in 2004-2007, (2) increasing EU energy imports and rising fossil fuel prices and (3) gas supply disruptions that showed a problem of endangered security of supply all played a large role in the context of the South Stream. The crisis of gas disruptions in 2006 pushed this problem on the political agenda, creating a policy window.

The preferred energy policies of the MSs and the EC showed much overlap, but were different on essential points. Both MSs and the EC wanted a consumer-oriented market. As the EU is a netto-importer of gas, this consumer oriented market would ensure a better energy security and an better pricing. MSs were however also willing to accept enticing deals that promised cheap gas in long-term contracts. MSs were looking for the best possible deal for their electorate. The EC instead had its own ambitions. Long-term contracts contradict

⁹⁷ Ibidem

⁹⁸ Ibidem.

their ambitions for an Energy Union. An increase of Russian influence due to decreased energy security would also endanger the EC.

MSs did not have to choose between policies, instead they opted for a variety of policies which would later contradict each other. MSs showed renewed interest in the Nabucco pipeline, to diversify energy sources. The South Stream project was also received as a viable option, as the circumventing of Ukraine would improve security of supply. For MSs it made sense to express interest in both projects, as competition between both projects would guarantee the best deal for MSs. Besides these gas pipeline projects, MSs also agreed on the EC's plan for a Third Energy Package that emphasized the creation of a consumer oriented market. This meant the unbundling of up-, mid- and downstream and special regulations for Third Party Access to the pipelines within the EU for third countries. For MSs this was a way to keep a check on Gazprom's increasing influence on the EU market. A harder stance against Gazprom was a warning against the company, as well as a showcase of strength to domestic populace. At the time, opting for the Nabucco pipeline, the South Stream and the TEP seemed viable.

For the criteria this shows that the preferred energy futures of the EC and MSs did not necessarily contradict each other. Especially in the short-term the concepts of energy security between MSs and EC showed much overlap. In the long-term this overlap became fuzzier. MSs were willing to take long-term gas contracts that contradicted the Energy Union. Whilst the TEP seemed a fine addition to EU energy security at the time, it would develop a gap between intended function and actual function of the package. This was the gap that the EC would later be able to use against the south Stream project. The EC did not explicitly oppose the South Stream, but was clearly not a supporter of further Russian energy dependence and incorrect implementation of the TEP. This caused a disagreement about the South Stream project. From December 2013 the EC started to actively express its disagreements about the project.

The next chapter will look at the actual clash between the EC and Gazprom as they disagreed about the future of the South Stream. Construction started on the project, but due to Ukraine the tension in the EU-Russia relationship was once more heightened. The annexation of the Crimea played an essential role in the eventual demise of the South Stream.

CHAPTER 3: CONVERGING STREAMS, ENDING THE SOUTH STREAM (2013-2014)

This chapter will detail the actual start of construction on the South Stream gas pipeline, as well as the eventual cancellation of the project. The time period of this chapter consists of late 2013 (when the EC started opposing the South Stream) until late 2014 (when the project was cancelled). Attention will be given to the bargaining between the EC and Gazprom as they vied for the energy future of the EU. The MSs saw the TEP turn against the South Stream (an unforeseen consequence, caused by the temporal dimension) against the will of participating MSs. Eventually the annexation of the Crimea caused renewed tensions between Russia and the EU, forcing MSs to reconsider the interdependent energy relationship, The EC pushed to use this policy window to attain further supranational capacities in the external energy sector.

This chapter will answer the second sub-question of this thesis: What factors played a role in the cancellation of the South Stream? The EC played a role in the demise of the project, but there were a multitude of other factors. In order to properly analyse the agency of the EC, the other factors need to be understood. Then, the agency of the EC can be put into a perspective and a nuanced conclusion can be given. Three criteria will be answered whilst formulating a conclusion to this sub-question. (1) Did existing legal framework clarify the disagreement? For Maltby's theory there needs to be room for the EC to manoeuvre. If existing legal framework already covers the disagreement, there is few possibility for the EC to find and exploit a policy window. The situation would already be resolvable without new policies. (2) Did disagreements regarding the South Stream disrupt the project? As there were multiple factors, the reason for the cancellation of the South Stream can reveal much about the agency of the EC. If the project was cancelled because of financial troubles or pressure form the United States of America, this does not show agency for the EC. For Maltby's theory, the EC needs a clear role in the cancellation. For this, the EC needs to take a limited political stance. (3) Were there other factors that determined the cancellation of the South Stream? For Maltby's theory to be correct, the EC has to have achieved its preferred

policy through merit, and not through luck. It does not need to be a huge actor, but its actions have to have been influential.

3.1 Gazprom's intentions for the South Stream

Firstly, it is important to understand what Gazprom's plan for the South Stream gas pipeline project was. As stated earlier, Oettinger considered the project to be a case of *'divide et impere'*.⁹⁹ This is a perspective that many academics follow; energy as a weapon to influence politics within the EU.¹⁰⁰ As part of a paradigm difference between the EU and Russia, this can be seen as a realist/geopolitical approach from Russia versus the market-liberal approach of the EU. The geopolitical ambitions of Russia should not be overestimated, but it cannot be denied that the recent energy relationship between Russia and the EU has changed in the past decade. As energy resources became scarcer, and oil prices soared, the pattern of interaction between Russia and Europe reversed. Gerrits argues in his chapter *'Conclusions: Defining priorities, setting policies'* that the EU used to be the assertive force during the 1990s. It was the EU that approached Russia to demand gas and made the deals. Russia took this assertive role after the enlargement of the European Union.¹⁰¹ Besides heightened energy prices, the EU now also had new MSs that were more dependent on the regional gas supply from Russia. Now it was Russia that approached the EU and set up the deals with the MSs. Whilst the raw EU potential in economic and military strength might outperform the Russian capabilities, Russia knew that the EU was a slow moving force that has become more reactive

⁹⁹ Dempsey, 'Europeans Are Prolonging'.

¹⁰⁰ Examples are:

J. Dempsey, 'Europe's Energy Strategy and South Stream's Demise'.

T. Romanova, 'Is Russian Energy Policy towards the EU Only about Geopolitics? The Case of the Third Liberalisation Package' in *Geopolitics* 21 (2016) 4, 857-879..

And: K. Colijn, 'Hongarije is een sinistere partner' (Version 24 March 2016)

<http://www.clingendael.nl/publication/hongarije-eeen-sinistere-partner> (27 February 2016).

¹⁰¹ A. Gerrits, 'Conclusions: Defining priorities, setting policies' in A. Gerrits (ed) et al., *The European Union and Russia: Perception and interest in the shaping of relations* (The Hague 2008) 85.

than assertive. The large amount of actors within the EU allowed Russia to play a game of *divide et impera*.

Against this backdrop it is of little surprise that the South Stream project is often labelled by academics as a geopolitical project, besides being an economic project.¹⁰² In this realist paradigm, three goals can be identified¹⁰³: (1) Circumventing Ukraine to reduce the leverage that the transit country has against Russia, should Ukraine oppose Russian demands in gas (or otherwise) again. (2) Increase the dependency on Russian gas in South-Eastern and Central Europe, so as to maintain or increase influence in these regions. (3) Undermine the rivalling Nabucco gas pipeline that would decrease the EU dependency on Russian gas and would cause more competitive gas prices.

This realist approach to energy does not necessarily pit Russian interests against EU interests. Russia wanted to sell its gas and MSs were interested. However, the fact that Russia did wish to keep clear control over the project becomes clear when the shareholders are analysed. The Russian state-owned Gazprom held slightly more than 50% of the shares, supported by the Italian ENI (20%), the French EDF (15%) and the German Wintershall (15%).¹⁰⁴ Participating MSs cheered for the competitive addition of the South Stream, as their only other alternative would have been the Nabucco project to deliver the necessary gas. From their market liberal perspective the South Steam could be a healthy, competitive project that would ensure that MSs could get the best possible deal.

Russia sought to make individual agreements with participating MSs, treating each in an intergovernmental bilateral manner.¹⁰⁵ Pierson's temporal dimension in politics can explain the edge Russia has over the MSs in these deals. MSs will take the best possible deal, but a time horizon limits the decision making to more short-term gains. As politicians change

¹⁰² Dempsey, 'Europe's Energy Strategy and South Stream's Demise'.

Romanova, 'Is Russian Energy Policy towards the EU Only about Geopolitics?' 859.

¹⁰³ Dempsey, 'Europe's Energy Strategy and South Stream's Demise'.

¹⁰⁴ Dempsey, 'Europeans Are Prolonging'.

Illustration 2 in the appendix show the division of shares according to the location of the pipelines, in all scenario's Gazprom held the majority of the shares.

¹⁰⁵ Romanova, 'Is Russian Energy Policy towards the EU Only about Geopolitics?', 866.

office or try to directly appease the electorate, they might prefer direct gains over long-term investments or strategy. In contrast, Putin has ruled the country from 2000 until 2008, served as prime-minister between 2008 and 2012 and has returned as Russia's president since 2012. This continuous presence in office allows for a long-term agenda in energy policy. Russia's game of 'divide et impere' has its effects on MSs. Hungary choose to oppose the EC when the EC asked for construction to stop on the South Stream. In support of Russia, Hungary allowed construction to begin on 3 November 2014.¹⁰⁶ Hungary also opposed sanctions against Russia, despite the rest of the EU taking a stance against the Russian annexation of the Crimea. Lucrative offers from Russia made Hungary turn against the general approach of the EU. Gazprom had succeeded to seduce Hungary, and Hungary tried to use Russia as an ally against further European supranational energy integration.

Russia has tried to exert its influence into energy sectors all over the EU. But MSs like Hungary, Lithuania, Poland and Slovakia are most obvious examples.¹⁰⁷ Bulgaria is another clear example of Russia directly seducing a MSs. Russia offered Bulgaria an incentive to continue the project when the EC had ordered a halt to construction in the third of June 2014. On top of the potential transit fees and reduced gas prices, Gazprom also offered to pay for construction of the Bulgarian part of the pipeline. This was a €3.1 billion offer.¹⁰⁸ On top of that, Gazprom offered to sponsor Bulgarian professional football team Levski Sofia.¹⁰⁹ This sponsorship was an ongoing promise of support, in return for a reliable energy partnership. The pressure was high on Bulgaria after the EC had ordered a halt to construction. The USA and the EC lobbied for the country to stop the project, Gazprom tried its best to get the

¹⁰⁶ Colijn, 'Hongarije is een sinistere partner'.

¹⁰⁷ J. Dempsey, 'Russia's Enduring Grip on Eastern Europe' (Version 7 March 2013)

<http://carnegieeurope.eu/strategieurope/?fa=51132> (16 March 2016).

¹⁰⁸ J. Yardley & J. Becker, 'How Putin Forged a Pipeline Deal That Derailed' (version 30 December 2014)

<https://www.nytimes.com/2014/12/31/world/europe/how-putin-forged-a-pipeline-deal-that-derailed-.html> (3 March 2016).

¹⁰⁹ Sofia News Agency, 'Gazprom Could Sponsor Bulgaria's Levski Sofia FC' (version 15 November 2012)

<http://www.novinite.com/articles/145152/Gazprom+Could+Sponsor+Bulgaria's+Levski+Sofia+FC> (12 December 2015).

project going again. Such offers are lucrative for the MSs, but threatening in the long-term as Russia could use energy as a weapon. In the end Bulgaria did halt construction on the sixth of August 2014.

Even EC Energy Commissioner Oettinger admitted that the EU might need the gas that the South Stream would supply.¹¹⁰ In March 2014 the EC created a Working Group between the Commission and Gazprom.¹¹¹ This Group was supposed to facilitate a legal solution to the issues of the South Stream project. Disagreement regarding the project and increasing tensions between Russia and the EU (due to sanctions and continuing unrest in Eastern-Ukraine) caused the Working Group to be unable to reach a solution.¹¹²

From this geopolitical stance it might seem that MSs dig their own graves by increasing the interdependency with Russia. This is, however, a biased view. The EC does see increasing interdependency negatively, but for MSs it is in their interests to allow Russia to compete on the gas market. From the Russian perspective, their gas market is threatened by the consumer-oriented changes the EU continues to push. Making third parties conform to the *acquis communautaire* is forcefully exporting the market-liberal model to countries that are not part of the decision-making process. Within Russia, such a market-liberal approach is not fully supported by the government. It could make the country too economically dependent on the EU, with potential loss of influence and economic power as a consequence. This forceful exporting of regulations by the EU carries a geopolitical tone.

The EU does not solely adhere to a market-liberal approach, nor does Russia solely act in a geopolitical realist way.¹¹³ Russia prefers to stay the assertive force in the energy

¹¹⁰ R. Youngs, 'A New Geopolitics of EU Energy Security' (Version 23 September 2014)

<http://carnegieeurope.eu/2014/09/23/new-geopolitics-of-eu-energy-security-pub-56705> (25 April 2016)
10.

¹¹¹ European Commission, *Proposal for a Decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU* (Brussel 2016) 100. PDF E-Book:

<https://ec.europa.eu/transparency/regdoc/rep/10102/2016/EN/SWD-2016-27-F1-EN-MAIN-PART-1.PDF>

¹¹² *Ibidem*, 10.

¹¹³ Romanova, 'Is Russian Energy Policy towards the EU Only about Geopolitics?', 862.

relationship, as this allows more influence in the shaping of the energy policy landscape. It is thus no surprise that there was outspoken opposition from Russia against the Third Energy Package, which would force Russia to conform to further EU rules if it wishes to continue supplying the EU. Gazprom's head of Contract Structuring and Pricing, Sergei Komlev, stated in 2011 that the TEP carried intrusive regulations, which forced and limited Russia's capacities to properly invest in supply projects to and within the EU.¹¹⁴ Despite Russian opposition, the TEP was implemented virtually unchanged within the EU. In April 2014, Russia challenged the TEP to the Dispute Settlement Body of the World Trade Organisation (WTO).¹¹⁵ The case has yet to be resolved, but it shows Russia's frustration with the EU demands. Russia had both geopolitical and economic interests in the project.

3.2 The agenda of the European Commission

The Commission did not openly admit its opposition to the South Stream, but definitely opposed the project before December 2014. The EC claimed to treat Gazprom's project just like any other infrastructure project.¹¹⁶ Their opposition to the project was explained as being due to breaches in the TEP regulations. That the project could hamper the EC ambitions to decrease dependency on Russia and prevent long-term contracts for the energy union was not mentioned by the EC. There are three points that the EC has stated as violations of the Third Energy Package:¹¹⁷

¹¹⁴ S. Komlev, 'Manuscript of speech Sergei Komlev: Third Energy Package and its Impact on Gazprom Activities in Europe' (Essen, 18 March 2011).

¹¹⁵ P. De Micco, PE 549.053 Changing pipelines, shifting strategies: Gas in south-eastern Europe, and the implications for Ukraine (Brussels 2015) 8. PDF E-Book: [http://www.europarl.europa.eu/RegData/etudes/IDAN0/2015/549053/EXPO_IDA\(2015\)549053_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN0/2015/549053/EXPO_IDA(2015)549053_EN.pdf). WTO, 'DS476: European Union and its Member States — Certain Measures Relating to the Energy Sector' (Version 15 March 2016) https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds476_e.htm (30 March 2016).

¹¹⁶ Cañete, 'P8_RE(2014)009661 Question for written answer'

¹¹⁷ P. De Micco, PE 522.316 *Delays to South Stream benefit Ukraine* (Brussels 2013) 2. PDF E-Book: [http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2013/522316/EXPO-AFET_SP\(2013\)522316_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2013/522316/EXPO-AFET_SP(2013)522316_EN.pdf).

- (1) Gazprom is owner of both the transmission network and the gas to be exported,
- (2) Gazprom has not allowed third parties access to the pipeline, and
- (3) The tariff structure (which allowed for reduced prices to entice transit countries such as Bulgaria) is not in line with European law.

Increasing interdependency has become an unwanted aspect for the EC. The dependency has evolved into a sword of Damocles, potentially harmful to the EU.¹¹⁸ The gas disruptions of 2006 and 2009 awakened the EU to the increasing gas dependency and urged the EU to rethink its energy relationship.¹¹⁹ The EC claims to push for increased energy security through a “[...] *more collective approach through a functioning internal market and greater cooperation at regional and European levels*”.¹²⁰ Without the policy window opened by the gas disruptions, this would not have been possible. It was the increase of urgency in the problem stream that allowed the EC to enact the TEP with rules such as Third Party Access. Current EC president Donald Tusk perceives a grand potential for a supranational level of energy regulation. “*We have worked on a number of ideas which could make the EU a sort of ‘power buyer,’ thanks to which countries that supply energy to Europe will not be able to slap tough conditions onto delivery contracts as they have done until now,*”¹²¹, he stated in August 2014. Whilst unlikely to be realised in the short-term, the fact that the EC talks so openly about these (political) ambitions is noteworthy.

A Russian complaint against the EU is about the forceful exporting of its energy regulations, forcing the ‘consumer market’ or ‘power buyer’ model upon neighbouring countries. About the energy ambitions the EC states: “*Within our closer neighbourhood our goal must remain to engage all partners at all levels in order to enable their close integration into the EU energy market. The Energy Community which aims to expand the EU’s energy*

¹¹⁸ De Micco, *PE 549.053 Changing pipelines*, 20.

¹¹⁹ Dempsey, ‘Russia’s Enduring Grip on Eastern Europe’.

¹²⁰ European Commission, *COM(2014) 330 final, Communication from the Commission to the European Parliament and Council, European Energy Security Strategy* (Brussels 2015) 3. PDF E-Book: <http://www.eesc.europa.eu/resources/docs/european-energy-security-strategy.pdf>.

¹²¹ J. Dempsey, ‘The Curse of Russian Energy’ (Version 3 April 2014) <http://carnegieeurope.eu/strategieurope/?fa=55221> (20 March 2016).

acquis to enlargement and neighbourhood countries should be further strengthened in the light of the EU's security of supply concerns. This should be achieved by promoting energy sector reforms in the participating countries, while also supporting the modernisation of their energy system and their full integration in the EU energy regulatory framework."¹²² This explicitly states the exporting of energy regulations to foreign markets. Whilst the EU might not mean to actively undermine Russia, the forceful exporting of this model does threaten Russian interests. As Russia's paradigm differs from the EU, its geopolitical tool of energy would be forced out of their control by the EU model. Russia resisted these changes in recent years, for instance through the sudden suspension of Shell's environmental permit of the Sakhalin II gas plant in 2006.¹²³ With the South Stream, Russia would again have to adapt its plans to the legal *acquis* of the EU. Bowing to the wishes of the EC would create a precedent in which Russia acknowledges the rules of the TEP and no longer organises its projects on a sole bilateral intergovernmental base,

Before the cancellation of the South Stream, the EC already pushed for ways to increase their control on the external energy policies of the EU. One of these ways was Decision No 994/2012/EU, approved by both the Council and the European Parliament in October 2012.¹²⁴ This decision was meant to urge MSs to report potential new intergovernmental agreements regarding external energy deals to the EC, before being accepted. This way, the EC hoped to correct any intergovernmental deals that they considered in breach with regulations. However, MSs were reluctant to report all their external intergovernmental energy agreements to the EC. The South Stream was an example of this reluctance, being reported to the EC only after the agreement had already been made between participating MSs and Russia.¹²⁵ The EC advised against the construction, advising

¹²² European Commission, *COM(2014) 330 final*, 18.

¹²³ Darbouche, 'Third Time Lucky?', 194.

¹²⁴ European Commission, *COM(2014) 330 final*, 18.

¹²⁵ *Ibidem*, 19.

G. Oettinger, 'Question for written answer E-005873/14 to the Commission Krišjānis Kariņš (PPE) and Sandra Kalniete (PPE) (21 July 2014) Answer given by Mr Oettinger on behalf of the Commission (22 September

the MSs that “[...] *the South Stream project should be suspended until full compliance with EU legislation is ensured and re-evaluated in light of the EU's energy security priorities.*”¹²⁶ The EC tried to organise these projects on a European level, rather than on a bilateral level. Construction on the South Stream had not yet started, but the plans for construction continued as MSs ignored the EC’s call for suspension.

On 21 November 2012 the EC stated that the South Stream was not to be considered a priority to the EU.¹²⁷ This meant that the project would not receive EU financial support. The EC did offer to coordinate the position of the EU on the South Stream between MSs and Russia. EU ministers agreed to this coordinating position of the EC in a meeting on 29 October 2012, despite opposing views on the projects.¹²⁸ At the time MSs did not expect the EC to actively oppose the South Stream and declare it an illegal project in the following year. Despite the EC’s coordinating role, MSs could continue their intergovernmental planning of the project as the EC did not have real capacities to halt these discussions. The EC was simply expected to resolve the breaches in the TEP.

EC Energy Commissioner Günther Oettinger asked MSs to “*show more backbone*” when dealing with Gazprom.¹²⁹ He feared that MSs allowed themselves to be too easily enticed by the Russian promises, not considering long-term consequences such as overdependence and the consequences the project might have in the region. With these consequences he meant that Ukraine might experience great difficulty from the South Stream, as its leverage against Russia as a transit country would be lost.¹³⁰ Because of the consequences for Ukraine, the EC had geopolitical considerations that went beyond EU

2014)’ (Version 22 September 2014) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2014-005873+0+DOC+XML+V0//EN&language=en> (15 March 2016).

¹²⁶ European Commission, *COM(2014) 330 final*, 19.

¹²⁷ Council of the European Union, *16135/12* (Brussel 2012) 4. PDF E-Book: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2016135%202012%20INIT>.

¹²⁸ *Ibidem*, 5.

¹²⁹ Council of the European Union, *17321/12* (Brussel 2012) 10. PDF E-Book: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2017321%202012%20INIT>.

¹³⁰ Council of the European Union, *16135/12*, 5.

energy dependency. The EC benefitted from a stronger Ukraine. If Ukraine was a Russian puppet, the influence from Russia would increase on the Eastern borders of the EU.

On 5 December 2013, the EC declared that the South Stream was in breach of the EU's TEP.¹³¹ The EC claimed to not actively oppose the South Stream, instead arguing that the project simply needed to meet EU regulations to guarantee a safe and further integrated EU energy market.¹³² In defence of their call for suspension of the South Stream the EC stated: *"The Commission has always stressed that it was not against the South Stream project as such but that South Stream, as any other infrastructure project, must be developed in line with EU legislation."*¹³³ This legislation was not the only motive for the EC. Preventing Russian influence and long-term contracts was an important part for the EC. Despite this early recognition of problems with the South Stream, planning continued on the project. MSs did not consider the problem stream of the South Stream urgent enough to re-evaluate the project.

3.3 Starting construction on the South Stream

One of the problems for the construction of the South Stream was the missing exemption to some of the Third Energy Package regulations. It was the EC that issued these exemptions. This exemption would have allowed Gazprom to not have Third Party Access to their pipeline, so they would not have to unbundle their project.¹³⁴ For Gazprom this was essential, as controlling the midstream was an important element of the pipeline project. A mistake on behalf of Gazprom made it impossible to apply for this exemption. Gazprom was eager to start work and bind the participating MSs to the project by starting construction. Gazprom had already filed its Final Investment Decision (FID) for the offshore section of the South

¹³¹ De Micco, *PE 536.413. A cold winter to come?*, 16.

¹³² G. Oettinger, 'European Energy Security Strategy: key priorities and actions' (Version 25 June 2014) http://europa.eu/rapid/press-release_SPEECH-14-505_en.htm (4 March 2016).

De Micco, *PE 536.413. A cold winter to come?*, 16.

¹³³ Cañete, 'P8_RE(2014)009661 Question for written answer'.

¹³⁴ V. Stoyanov, 'The real prospects for South Stream: it's all about exemption' (Version 15 October 2013) <http://energypost.eu/the-real-prospects-for-south-stream-its-all-about-exemption/> (20 December 2016).

Stream, before they applied for an exemption from some of the TEP regulations.¹³⁵ These exemptions were meant for Projects of Common Interest (PCI). The EU had already shown interest in a PCI to improve the security of supply for SEE. A project had to prove that it needed support from the EU to be realised. By filing their FID, Gazprom had shown that the project was feasible without further help from the EU. Their eligibility for exemption was lost with the filing of their FID.

Had Gazprom applied for an exemption, the EC would have had difficulty refusing it. The EC was willing to give the Nabucco project an exemption as part of its recognition as PCI, and the South Stream project was so similar that denying one and approving the other would have been a very political statement from the EC. A statement that was bound to be heavily condemned by the participating MSs of the South Stream project. Other MSs might be worried about such a politically active EC as well. The South Stream would have had a strong case to be exempted from TPA, but for unknown reasons Gazprom did not apply. Possibly, Gazprom feared a negative outcome, as the EC silently opposed the South Stream. This negative outcome could have undermined trust in the project. Another option is that Gazprom refused to recognize the South Stream as a project with the EU, instead seeing it as a set of bilateral deals with the specific MSs. This postponed issues as the South Stream now violated Article 9, 32 of the TEP.¹³⁶ Without the exemption, the South Stream was illegal according to the EU *acquis*.

After the gas disruptions there were doubts about Russia's reliability as a gas supplier. However, increasing gas demand meant that the SEE needed suppliers. The European Council discussed the Nabucco and South Stream projects in 2009.¹³⁷ There was

¹³⁵ K. Yafimava, *The EU Third Package for Gas and the Gas Target Model: Major Contentious Issues Inside and Outside the EU* (Oxford 2013) 28. PDF E-Book: <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2013/04/NG-75.pdf>

Gazprom Export, 'Final investment decision adopted for South Stream offshore section' (Version 15 November 2012) <http://www.gazprom.com/press/news/2012/november/article148506/> (20 April 2016).

¹³⁶ Stoyanov, 'The real prospects for South Stream'.

¹³⁷ Council of the European Union, *14635/09* (Brussels 2009) 3. PDF E-Book: <http://data.consilium.europa.eu/doc/document/ST-14635-2009-INIT/en/pdf>.

doubt whether the Nabucco project should be underlined as sole priority, or whether the EU might need both projects to meet future gas demand. It was at this time that Gazprom and ENI announced that they would increase the capacity of the South Stream from 31 Bcm to 63 Bcm.¹³⁸ For the Council, this was good news. The commercial projects of Nabucco and South Stream could compete with each other, whilst the Council showed interest in both projects. The best possible deal would be derived from this competitive environment. Gazprom had enticed the Council to trust them. The South Stream would be a reliable solution, preventing potential future gas disruptions due to the capacity of the pipeline and circumventing Ukraine.

Despite missing permits and some doubts about the financing, construction on the South Stream started at a slow pace on 31st of October 2013.¹³⁹ It is likely that Gazprom tried to tie MSs to the project by already starting construction. Via these sunk costs the MSs would be less inclined to back out of the project they had already invested in. As MSs were offered an enticing deal and European politicians had seemingly nothing to lose in the project, the pipe dream started to become a reality.

3.4 Streams converge: The end of the South Stream project

Once more, it was Ukraine that played an essential role in the changing perceptions of the energy relationship between Russia and the EU. The gas disruptions of 2006, 2008 and 2009 had already strained the EU-Russia relationship, but the Russian annexation of the Crimea in March 2014 has increased tensions to new heights since the Cold War.¹⁴⁰ The Ukraine crisis would become a turning point in the South Stream project. The project started to politicise as geopolitical discussions regarding the negative EU interdependency on Russia increased. A policy window opened for the EC as sentiment turned against Russia, whilst the

¹³⁸ Deutsche Press Agentur, 'Russia agrees to boost pipeline capacity' (Version 15 May 2009)

https://downstreamtoday.com/news/article.aspx?a_id=16386 (25 April 2015).

¹³⁹ Gazprom Export, 'South Stream construction starts in Bulgaria' (Version 31 October 2013)

<http://www.gazprom.com/press/news/2013/october/article176112/> (20 February 2016).

¹⁴⁰ Euractiv, 'Russia says Ukraine attempted to 'destabilise' Crimea' (Version 11 August 2016)

<https://www.euractiv.com/section/europe-s-east/news/russia-says-ukraine-attempted-to-destabilise-crimea/> (20 December 2016).

United States of America supported the EC interest to prevent the South Stream from being realised.

An important player during the Ukraine crisis was the USA. The USA had clear influence in the outcome of the South Stream project. EC and USA interests converged on two aspects. The first aspect is about the position of Ukraine. Geopolitically, the US and the EC were motivated to show their support for Ukraine. Ukraine's geographically strategic position allowed the transit country to have political leverage against Moscow. The South Stream would have diminished this leverage. For this reason, Ukraine strongly opposed the South Stream project. Without it, Ukraine would become much more dependent on Russian consent in international relations. If the USA wanted to support Ukraine, then the South Stream pipeline had to be stopped. A group of three US congressmen (and the US ambassador in Bulgaria) travelled to the capital of Bulgaria, Sofia, in June 2014.¹⁴¹ Here they met with the Bulgarian prime minister to express their concerns regarding the South Stream. Amongst the congressmen was Senator John McCain. He explicitly warned the Bulgarian prime minister against continuing the construction of the pipeline.¹⁴² USA ambassador Marcie Ries repeated this warning and stated that Bulgaria should do no business with any companies linked to the Russian oligarch Gennady Timchenko.¹⁴³ Timchenko was the owner of the company Stroytransgas, the construction company that was largely responsible for the construction of the South Stream in Bulgaria.¹⁴⁴ The USA imposed sanctions on Timchenko

¹⁴¹ The Economist, 'Screams and streams. A row over a Russian-backed pipeline topples the government' (version 21 June 2014) <http://www.economist.com/news/europe/21604581-row-over-russian-backed-pipeline-topples-government-screams-and-streams> (28 December 2015).

¹⁴² Standartnews, 'US pressure on South Stream stops project until agreement with Brussels' (version 9 June 2014) http://www.standartnews.com/english/read/us_pressure_on_south_stream_stops_project_until_agreement_with_brussels-3924.html (18 December 2015).

¹⁴³ Standartnews, 'US pressure on South Stream'.

¹⁴⁴ K. Golubkovka, T. Tsoleva & W. Hardy (red.), 'Timchenko company blames McCain for lost Bulgaria South Stream work' (version 4 August 2014) <http://www.reuters.com/article/southstream-bulgaria-russia-idINL6N0QA42D20140804> (18 December 2015).

and his companies as part of their reaction to the Ukraine crisis, because Timchenko was considered a close associate of Putin.

The second aspect in which the US and EC shared a vision was the negative interdependency. The Nabucco pipeline was considered a better solution as the project allowed diversification of energy sources, rather than only a diversification of energy transit routes.¹⁴⁵ The more pro-Western states of the Caspian sea would be more reliable partners and allow for the creation of a more consumer-oriented gas market in the EU.¹⁴⁶ Since 2005 the US was an important supporter for the Nabucco pipeline. The Bush administration saw the dire situation of the gas disruptions of 2006 as proof that the Nabucco was essential in order to safeguard the EU from further damages and increasing Russian influence.¹⁴⁷ When asked about the competing South Stream pipeline, Matt Bryza (US deputy assistant secretary of state for European and Eurasian Affairs) said: *“This is all about Gazprom, a state-run monopoly, exerting monopoly pressure to restrict competition. The Russians want to maintain our allies’ dependence on Gazprom so as to keep gas prices high.”*¹⁴⁸ For the USA, the Nabucco pipeline was the obvious preferred project. If the EU was overly dependent on Russian gas, this would mean an increase of Russian influence on the EU. This influence would be at the cost of the USA’s power. Both economically and geopolitically, the USA was involved in the external energy dimensions of SEE. The USA also had financial interests in the pipeline. In 2011 estimates put the cost of the pipeline at €8 billion, of which the USA would perform much of the paid construction work.¹⁴⁹ However, the Nabucco pipeline was slow to materialize. Russia’s capacity to offer incentives like transit fees and cheap bilateral deals

¹⁴⁵ Commission of the European Communities, {SEC(2007) 12}, 9 and Baev & Øverland, ‘The South Stream versus Nabucco pipeline race’, 1075.

¹⁴⁶ Andoura & Vinois, *From the European Energy Community to the Energy Union*, 88.

¹⁴⁷ G. Chazan, ‘Russia outflanks EU’s pipeline plan’(Version 16 June 2008)
<https://www.wsj.com/articles/SB121357359757375919> (8 February 2016).

¹⁴⁸ Ibidem.

¹⁴⁹ E. Ersoy, ‘Nabucco Gas Pipe Cost ‘Won’t Be Far Away’ From \$11 Billion’ (version 25 October 2011)
<http://www.bloomberg.com/news/articles/2011-10-25/nabucco-gas-pipe-cost-won-t-be-far-away-from-11-billion>
(18 December 2015).

within the limited temporal dimension of an elected office were more convincing to many MSs.

With the annexation of the Crimea, the urgency of the problem stream had changed. Sentiment within the EU turned against the perceived Russian aggression. The Council was quick to condemn the actions of Russia, in an effort to create the image of a united European vision.¹⁵⁰ Talk of possible sanctions against Russia began.¹⁵¹ Taking a harsh stance against Russia pleased the electorate, as could also be seen in the European Parliament. A joint motion by the ECR, ALDE, Verts/ALE and PPE parties in the European Parliament called for “[...] *reducing the EU’s dependency on Russian oil and gas [...] as well as stating that [...] the South Stream pipeline should not be built, and that other sources of supply should be made available.*”¹⁵² The ECR, ALDE and Verts/ALE continued creating similar joint motions to call MSs to action against the South Stream project¹⁵³, including a motion that condemned Austria and Hungary for their continued support for the project.¹⁵⁴ The EC made use of the momentum created by this critical re-evaluated position of the energy relationship with Russia. The problem stream had changed severely, due to the increased perceived threat. The EC’s preferred policy was clear and the political stream started to shift. Supported by US sanctions against involved construction companies, the EC made use of the opening of this policy window to push for the South Stream project to either change or cease.

¹⁵⁰ Council of the European Union, *Conclusions on Ukraine, approved by the European Council* (Brussel 2014) 1. PDF E-Book: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/141707.pdf

¹⁵¹ European Commission, SWD(2014) 300 final/2 Joint Staff Working Paper (Brussel 2014) 3-4. PDF E-Book: https://eeas.europa.eu/ukraine/pdf/swd_2014_300_f2_joint_staff_working_paper_en_v8_p1_776932.pdf.

¹⁵² European Parliament, *RC 1027615EN Joint Motion for a Resolution* (Brussel 2014) 8. PDF E-Book: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+P7-RC-2014-0436+0+DOC+PDF+V0//EN>.

¹⁵³ European Parliament, *RC 1035141EN Joint Motion for a Resolution* (Brussel 2014). PDF E-Book: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+P8-RC-2014-0118+0+DOC+PDF+V0//EN>.

¹⁵⁴ European Parliament, *RE 1031583EN Joint Motion for a Resolution* (Brussel 2014). PDF E-Book: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+P7-RC-2014-0436+0+DOC+PDF+V0//EN>

On 3 June 2014 an infringement procedure was started against Bulgaria by the EC. The investigation was started by the EC because of perceived general corruption, civil unrest and the South Stream project. The EC asked the Bulgarian government to halt construction on the project until results of this procedure were known.¹⁵⁵ This also meant waiting for the EC to give a verdict whether the South Stream project conformed to TEP law. Bulgaria did not halt construction. The Bulgarian minister of Economy and Energy feared that the South Stream had politicised and stressed that the project should not be held hostage to the Ukraine-Russia relationship.¹⁵⁶ On the fourth of June, the EC took more severe measures. It stripped €90 million in regional funds meant for projects of Urban Development and Tourism in the region where the South Stream was being constructed.¹⁵⁷ The relatively poor region of Bulgaria needed the funds direly and in this increasingly complicated situation, the Bulgarian government was forced to reconsider the South Stream project. The Bulgarian government caved in to increasing pressure and halted construction on the sixth of August.¹⁵⁸ Russian president Putin stated that he hoped a deal could still be made between the MSs and Russia.¹⁵⁹ Support for the project was dwindling and financial confidence in the project fell as well.

¹⁵⁵ B. Lewis, 'European Commission asks Bulgaria to suspend work on South Stream' (version 3 June 2014) <http://uk.reuters.com/article/uk-eu-southstream-bulgaria-idUKKBN0EE0PA20140603> (27 December 2015). European Commission, *COM(2014) 330 final*, 19.

¹⁵⁶ N. D. Byalkova, 'Brussels opens infringement procedure against Bulgaria over South Stream' (version 3 June 2014) <http://powermarket.seenews.com/news/update-2-brussels-opens-infringement-procedure-against-bulgaria-over-south-stream-423770> (27 December 2015).

¹⁵⁷ Standartnews, 'Brussels twists Bulgaria's arms: Union stops EUR 90M due to South Stream' (version 4 June 2014) http://www.standartnews.com/english/read/brussels_twists_bulgarias_arms_union_stops_eur_90m_due_to_south_stream_-3874.html (28 December 2015).

¹⁵⁸ P. De Micco, *PE 536.415 The Russian-Ukrainian gas deal: Taking the bite out of winter?* (Brussels 2014) 8. PDF E-Book: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2014/536415/EXPO_BRI\(2014\)536415_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2014/536415/EXPO_BRI(2014)536415_EN.pdf).

¹⁵⁹ A. Rettman, 'Putin's pipeline drives wedge between EU and Balkan hopefuls' (version 24 October 2014) <https://euobserver.com/foreign/126222> (28 December 2015).

Spearheaded by the Italian Prime Minister Matteo Renzi, a joint letter was sent to EC president José Manuel Barroso in June 2014.¹⁶⁰ In this letter Renzi and leaders of Austria, Bulgaria, Croatia, Greece, Hungary, Serbia and Slovenia expressed their disapproval of the EC decision to order a halt of construction on the South Stream project in Bulgaria.¹⁶¹ These MSs still supported the project. The EC refused to reconsider its position as long as the South Stream would not comply to TEP regulations. On the sixth of November the national parliament of Hungary even approved a national law to build the South Stream without the permits the EC demanded.¹⁶² The EC demanded clarification and stated that the national law breached European law. The South Stream was cancelled before the EC undertook potential action against the Hungarian law. Hungary was testing the EC's resolve to halt construction on the South Stream. Hungary was the only country to undertake action beyond asking the EC to reevaluate its position. Nonetheless, the joint letter showed that a number of MSs were still supporting the project. The EC had taken a political stance, but most MSs were not willing to contradict the EC.

Despite these efforts to increase pressure on the EC, construction in Bulgaria was postponed until a verdict was made.¹⁶³ Russia's EU Ambassador Vladimir Chizhov is quoted as saying: "*It is hard to shake off the feeling that the European Commission's blocking of the start of work on the construction of Bulgaria's key section of South Stream has been done for purely political purposes,*"¹⁶⁴ In this quote Chizhov recognizes the EC as a political player, trying to increase its power. This vision pits the EC against the participating MSs, a vision beneficial to Russia's efforts to save the South Stream. It would be up to the MSs to continue the project. However, their loyalty to the project was built upon a market-liberal approach

¹⁶⁰ De Micco, *PE 549.053 Changing pipelines*, 8-9.

¹⁶¹ Euractiv, 'Renzi leads belated effort in support of South Stream' (version 10 June 2015) <http://www.euractiv.com/section/global-europe/news/renzi-leads-belated-effort-in-support-of-south-stream/> (15 March 2016).

¹⁶² G. Gotev, 'Hungary attempts to bypass EU law on South Stream' (version 5 November 2014) <https://www.euractiv.com/section/central-europe/news/hungary-attempts-to-bypass-eu-law-on-south-stream/> (20 March 2016).

¹⁶³ De Micco, *PE 536.415 The Russian-Ukrainian gas deal*, 8.

¹⁶⁴ Euractiv, 'Renzi leads belated effort in support of South Stream'

to the best deal. If Russia could no longer deliver this deal, MSs would lose confidence in the project and no longer back it.

As tensions between Russia and the EU remained high, the fate of the South Stream pipeline hung in the balance. At first, imposed sanctions after the Ukraine crisis caused Bulgaria to cling on to the South Stream project. For Bulgaria the economic incentive was important, especially after the sanctions deteriorated the Bulgarian economy due to sudden limited trade with Russia. The pipeline was seen as a way to help the deteriorating economy. The sanctions also had other effects. Stroytransgaz, owned by Gennady Timchenko, was also hit by the sanctions. This slowed the construction of the pipeline in Bulgaria. On top of this, the EC started an investigation against Stroytransgaz. The EC suspected corruption, as the contracts were not awarded transparently.¹⁶⁵ One of the demands of the EC was that contracts for construction of the energy infrastructure should be awarded transparently.

Ultimately, Bulgaria halted construction after mounting pressure and the cancellation of regional funds by the European Commission.¹⁶⁶ With Bulgaria's halt of construction and the effects of the sanctions damaging Russia's economy, the tables had turned against the South Stream project. The outlook of the project looked bleak. The involved European companies started showing their doubts as well. Confidence in the successful realization of the project fell. One of Gazprom's important construction partners, the Italian company ENI Spa, indicated it was unwilling to carry a higher financial burden than the €600 million that was agreed upon.¹⁶⁷ Higher investment costs seemed too risky for ENI Spa. As Gazprom could not give this guarantee (there were talks about a potential €2.4 billion in investment needed by ENI) this seriously undermined the future of the South Stream project. Without broad support from the European companies, Gazprom could not finish the project. Gazprom did not have the means to carry the project all by itself, especially not due to the sanctions and opposition from the EC.

¹⁶⁵ Watson, 'Russia's crack pipe to Europe'.

¹⁶⁶ De Micco, PE 536.415.

¹⁶⁷ Redazione ANSA, 'Eni could leave South Stream' (version 4 November 2014)

http://www.ansa.it/english/news/business/2014/11/04/eni-could-leave-south-stream_3b61daea-cd9f-4adb-b2e3-939a6bb4deb8.html (15 December 2015).

In a surprising statement on 1 December 2014, Putin announced that the South Stream project would be cancelled.¹⁶⁸ Instead, Russia would look to diversify its own gas market. This implied that Russia now saw the EU-Russia interdependency negatively. But Russian efforts to enter the EU market did continue. Concepts for Russian pipelines under the Black Sea and pipelines connecting to the SEE market via Turkey are still offered by Russia. Nonetheless, the cancellation of the South Stream may have set a precedent and this might cause Russia to no longer try its hand at controlling the EU midstream.

3.5 Conclusion

In conclusion this chapter has shown that the Ukraine crisis was the turning point in the South Stream project. Supported by the USA influence and sanctions, the EC managed to get Bulgaria to halt construction on the project. Without the support of these sanctions and a renewed perception by the MSs within the problem stream, it is unlikely that the EC could have achieved a successful halt of construction. Luckily for the EC, the annexation of the Crimea caused a re-evaluation of the problem stream. The halt and possible demise of the South Stream were the preferred policy of the EC. The political will to adopt this policy of a harsher stance against the South Stream had increased to a level that allowed for the EC preferred policy to be realised. MSs like Bulgaria, Italy, Austria and Hungary were, however, still reluctant to let the project go.

With the findings of this chapter, the second sub-question of this thesis can be answered: What factors played a role in the cancellation of the South Stream? There were a variety of factors that played an important role in the cancellation of the South Stream. Most notable were the annexation of the Crimea, the sanctions by the USA, the financial problems for Gazprom and the EC's ability to halt construction.

It was the annexation of the Crimea that caused a revaluation of the problem stream. The EC did not wish to give an image of opposition against the project, but it's

¹⁶⁸ D. Zeyrek, "I am fed up with the Bulgarians,' Putin tells Erdoğan' (version 4 December) <http://www.hurriyetdailynews.com/i-am-fed-up-with-the-bulgarians-putin-tells-erdogan-.aspx?pageID=238&nID=75182&NewsCatID=510> (15 January 2016).

European Commission, *Proposal for a Decision*, 10.

disagreement with the project did cause the EC to be motivated to work against the project wherever possible. The conflicting preferred framework caused the EC to prolong the process of approval. Eventually the Ukraine crisis created the actual turning point. Without EC opposition the South Stream might already have been in a much further stadium of approval or completion before March 2014. There were other factors that contributed to the cancellation of the South Stream. A bleaker future of European gas consumption made the project potentially less lucrative. The financial investments needed for the project also increased unexpectedly due to the Ukraine crisis. As such, ENI was asked to increase its investments well beyond the 600 million that they were originally asked to contribute. This caused ENI to doubt its willingness to participate. The cancellation came as a surprise to many. The EC and MSs still expected to need increased gas supply. Participating MSs were reluctant to halt construction on the project and Gazprom would rather cancel this version of the South Stream than adapt to TEP regulations. The EC was a politically active actor, but could not have achieved the cancellation of the South Stream without other factors.

With this sub-question, three criteria for Maltby's theory can be tested. (1) Did existing legal framework clarify the disagreement? Theoretically there was existing legal framework as the TEP showed that the South Stream was illegal as long as it did not conform to the *acquis communautaire*. However, without precedent it was unclear whether the EC should and would actually stop the project. There were conflicting interpretations of the South Stream project. As Gazprom had already filed a FID, the EC would not allow exceptions to the TEP laws. The South Stream's insistence on possession of the midstream and denial of Third Party Access to the pipeline conflicted with TEP regulations. Gazprom argued that the project was a bilateral project between Russia and several MSs within the EU. Therefore EU laws such as the TEP had no right to be upheld. This pitted the supranational EC framework versus the intergovernmental framework of participating MSs and Gazprom. This unclear definition of the South Stream project caused the actual upheld legal framework to be unclear, until the Ukraine crisis caused a more united voice against the Gazprom perception of the project. (2) Did disagreements regarding the South Stream disrupt the project? . The disagreement between the EC and Gazprom was not the reason the South Stream was cancelled, but the EC did disrupt construction. The EC had delayed the project and managed to utilize the annexation of the Crimea to take harsher measures against the South Stream.

(3) Were there other factors that determined the cancellation of the South Stream? There were many other factors that played an important role. The shift of opinion regarding Russia was essential. US influence such as the sanctions against construction companies were also very important. It is doubtful that the EC could have managed to halt construction singlehandedly if the annexation of the Crimea had not caused such a shift of the problem stream.

The next chapter will detail the bargains that took place after the cancellation of the South Stream pipeline. MSs were not loyal to the project itself, but the potential deals that Gazprom could offer were still enticing some of the MSs. Nations like Bulgaria still saw benefit in a Russian gas supply, albeit in a different project. No longer could Gazprom maintain control over the midstream within the EU energy sector. The turning point of the Ukraine crisis had changed perception of the Russian dependency and this re-evaluation would cause harsher enforcement of TEP laws against the South Stream project. A new project would require Gazprom to comply with EU law.

CHAPTER 4: BARGAINS IN THE AFTERMATH (2014-2017)

This chapter will show the aftermath of the cancellation of the South Stream. The chapter will cover events from 2014 (after the cancellation of the South Stream) until 2017 (when a law passed that would give the European Commission an oversight position for external energy intergovernmental agreements). As the planned gas pipeline disappeared, new solutions were considered. Russia first wanted to diversify its own markets, but still presented potential gas pipeline projects to the MSs. MSs such as Bulgaria tried to lobby for the continuation of the project, albeit without breaching TEP regulations. The EC tried to put the blame of the cancelled project on unclear communications between MSs and the EC. They pleaded for an oversight position, that would allow them to notify MSs about potential breaches of the TEP before construction would be allowed to start. There was much attention for the energy security of the EU. The streams had converged and the EC could achieve a successful bargain. These bargains can reveal much about the ambitions and motivations of both MSs and the EC. It was in this moment that the EC could push its agenda.

This chapter will answer the third sub-question of this thesis: What did the EC achieve in the period of bargains after the cancellation of the South Stream? If the crisis that caused the South Stream to end was genuinely a policy window, then it is to be expected that the EC managed to successfully showcase policy entrepreneurship and use the momentum the problem stream provided to push for their preferred policies. The political stream then decides about implementation of this new policy. With this chapter the last two criteria can be answered: (1) Was the situation resolved in clear consensus? For Maltby's theory to be confirmed, there should be a consensus but not an easy consensus. The EC needs to show that it has a different agenda and different preferred policies to the MSs. Some reluctance to accept the policies from the EC should be expected from the MSs. It should not be the MSs eagerly accepting or even dragging the EC into agreement, the EC has to show this assertive force. . (2) Did the EC manage to achieve its preferred policies? There is no policy entrepreneurship without results. It is unlikely that the EC manages to achieve all of its goals, but the EC should make clear advances in its agenda. The EC already managed to halt the South Stream, but the period of bargains after the sudden cancellation of the project allowed the EC to achieve more of its preferred policies.

4.1 Solutions to the South Eastern European gas demand

Theoretically, the cancellation of the South Stream could provide an opportunity to diversify European energy sources. It could also be an opportunity to enforce the Third Energy Package amongst those MSs who had yet to fully ratify the package and introduce more competition on the European energy markets.¹⁶⁹ As the problem stream was deemed urgent, the ratification of the TEP and the implementation of new policies could be part of the solution MSs were looking for. The political stream was more willing to accept a variety of solutions. With the cancellation of the South Stream, European politics contrasted with the wishes of national politics.¹⁷⁰ Nonetheless, a policy solution on European level was considered viable by the MSs. The problem of Russian aggression was deemed severe enough that collective action should be taken. There were also a variety of infrastructural solutions offered to answer the SEE gas demands.

Due to the Ukraine crisis, the problem stream of the EU energy security received extended attention. Special attention would have to be paid to solutions to the energy vulnerability of SEE and to convince these MSs that the EU is a better partner than Russia.¹⁷¹ Such solutions could be through gas interconnectors or integrated energy policies. It is important to note is that MSs like Romania and Bulgaria were nearly 100% reliant on Russian gas, thus any solutions to energy dependency had to be taken swiftly should Russia once more cause gas disruptions due to the Ukraine crisis. However, it is not easy for the EC to convince these MSs to commit themselves to a European energy strategy. Russia offered enticing deals that lured the MSs away from this European policy level, for instance via lucrative transit-fees.¹⁷² A convincing energy alternative would need to be offered to limit Russian influence on these MSs. There were a variety of alternatives that the SEE MSs could turn to, but there was no obvious short-term replacement. Instead MSs oriented themselves

¹⁶⁹ Dempsey, 'Europe's Energy Strategy and South Stream's Demise'.

¹⁷⁰ D. Smilov, 'Letters from Sofia' (Version 22 May 2015)

<http://carnegieeurope.eu/strategieurope/60147?lang=en> 4 (29 April 2016).

¹⁷¹ Smilov, 'Letters from Sofia', 3.

¹⁷² Ibidem, 3-4.

broadly, allowing competing alternatives to deliver the best deal. MSs had done the same after the repeated gas disruptions of 2006 until 2010. Whilst the EC took a harsh stance against Russian influences on the energy market, MSs instead wanted as much options as possible.

A limited alternative source of gas was provided by the USA, this was Liquefied Natural Gas (LNG). In short-term or crisis situations this could offer an alternative to Russian gas. Infrastructure for this LNG lacked, however. In 2014 it was expected that the USA could export as much as 66 Bcm per year to the EU by 2018-2020 with the Transatlantic Trade and Investment Partnership (TTIP).¹⁷³ This possible source of gas was already considered a contender to the South Stream before the cancellation of the gas pipeline, but much depended on stability of the market and the successful finalization of TTIP. ¹⁷⁴ At the time, USA LNG was mostly considered a viable solution to short term shortages of gas. Higher prices due to transport and lacking infrastructure did not make it very incentive. The consequences of market instability were also more severe, as the USA could transport its gas to the highest bidder. Unlike a land pipeline, the destination could be changed at a whim. By 2016 limited infrastructure for LNG has been constructed in Athens, allowing the US to supply the SEE MSs.¹⁷⁵ For a long-term cheaper solution, a land pipeline continues to be a better alternative.

A second alternative was the spiritual successor of the Nabucco pipeline, the Trans Adriatic Pipeline (TAP)¹⁷⁶. Bulgarian Prime Minister Boyko Borisov stated in 2015: “*We want to revive the Nabucco project, more specifically the stretch that goes through Bulgaria.*”

¹⁷³ De Micco, *PE 536.413. A cold winter to come?*, 31-32.

¹⁷⁴ Standartnews, ‘Leaked proposal reveals EU pressure on US for gas exports: A game changer for the South Stream?’ (version 10 July 2014) http://www.standartnews.com/english/read/leaked_proposal_reveals_eu_pressure_on_us_for_gas_exports_a_game_changer_for_the_south_stream-4310.html (18 December 2015).

¹⁷⁵ Reuters, ‘Bulgaria, Greece form task force to build Greek LNG terminal’ (Version 31 May 2016) <https://www.reuters.com/article/greece-lng-bulgaria/bulgaria-greece-form-task-force-to-build-greek-lng-terminal-idUSL8N18S2QS> (6 July 2017).

¹⁷⁶ Trans Adriatic Pipeline, Southern Gas Corridor (Version 10 July 2017) <https://www.tap-ag.com/the-pipeline/the-big-picture/southern-gas-corridor> (10 July 2017).

*Our country is an extremely loyal EU member and has implemented all legal requirements of the Third Energy Package, unlike many other countries. Therefore, together with President Aliyev (Azerbaijan), we will present the revival project to the European Commission.”*¹⁷⁷ The effort received wide support from MSs and theoretically the pipeline could be operational in 2019-2020.¹⁷⁸ After the cancellation, the primary aim of the Bulgarian government was to improve the country's image within the EU.¹⁷⁹ When Bulgaria became a member of the EU, there were fears that the country would be a Russian Trojan horse. The politicisation of the South Stream seemed to confirm this image of Bulgaria as a supporter of Russia. In order to prevent further damage to its reputation, Bulgaria has to prove it could live up to its commitments to the EU. In reality, finding the necessary investors has been difficult and Russian competitive alternatives have caused the project to slow down.

A third alternative was another Bulgarian initiative. This model consisted of gas hubs on the Bulgarian coast, supplied via a Russian gas pipeline under the Black Sea. As part of the infrastructure was already build, this was considered a viable solution that could be operational relatively quickly.¹⁸⁰ In that case, Gazprom would have to conform to the rules of the TEP, otherwise it risks being unable to finish the project again. Instead of transit fees, Bulgaria would buy the Russian gas for a slightly reduced price and be able to sell it for a modest profit in SEE. Support for this plan was also expressed by German Chancellor Merkel and French President Hollande.¹⁸¹ The EC has yet to express its stance on the project, Gazprom has also not yet confirmed whether it is interested in this model.

¹⁷⁷ G. Gotev, Bulgaria wants to revive Nabucco, Azerbaijan says pipeline name 'not important' (version 5 March 2015) <http://www.euractiv.com/sections/energy/bulgaria-wants-revive-nabucco-azerbaijan-says-pipeline-name-not-important-312645> (28 December 2015)

¹⁷⁸ Andoura & Vinois, *From the European Energy Community to the Energy Union*, 88.

¹⁷⁹ Ibidem, 2.

¹⁸⁰ Standartnews, 'Bulgaria in talks with EU for a shorter South Stream' (version 4 December 2015) http://www.standartnews.com/english/read/bulgaria_in_talks_with_eu_for_a_shorter_south_stream_10248.html (29 December 2015).

¹⁸¹ A. Rinke, A. Hudson & G. Jones (red.), 'Merkel urges Bulgaria to seek new talks with Putin on South Stream' (version 15 December 2014) <http://www.reuters.com/article/us-bulgaria-gas-southstream-idUSKBN0JT1NI20141215> (2 January 2016).

4.2 Renewed Russian efforts

It was the EC that opposed the South Stream project, started an investigation against the project, an investigation against Bulgarian companies building the gas pipeline and ordered a halt to construction. Despite this, the EC should not be perceived as the clear victor in this dispute.¹⁸² The South Stream may have been cancelled in its original shape, but the Gazprom plan of a pipeline under the Black Sea towards Bulgaria continues to exist. Other alternatives were also considered. A pipeline via Turkey would access the SEE EU market. This so-called Turk Stream pipeline project was announced in the very speech in which Putin also announced the end of the South Stream.¹⁸³ It showcases the determination of Russia to access the EU markets, if necessary indirectly. With recent complex relations between Russia and Turkey, and shifting relations between Turkey and the EU, the future of this Turk Stream is all but certain.¹⁸⁴ On top of that Russia will just as well face the consequences of the TEP regulations when entering the SEE via Turkey.¹⁸⁵ It does not matter whether the pipeline enters the EU through Turkey or the Black Sea, Gazprom will need an exemption to control the midstream of their project in the EU. Nonetheless, the Russian efforts to provide gas via alternative routes may convince MSs in SEE that Russia is a reliable energy supplier. Russia makes much effort to reach the SEE market and this does create a reputation of determination to provide for the MSs that are willing to buy.

Russia tried to put the blame of the cancellation on the EC purposefully. Russia hoped that MSs would have held the EU responsible for cancelling the South Stream whilst they were offered an enticing deal. This would have split a wedge between MSs that still supported the project and the EC.¹⁸⁶ But this was not the result of Putin's speech. In reality

¹⁸² K. Colijn, 'De overwinning van Vladimir Poetin' (Version 23 December 2014)

<http://www.clingendael.nl/publication/de-overwinning-van-vladimir-poetin> (25 March 2016).

¹⁸³ Zeyrek, 'I am fed up with the Bulgarians,'

¹⁸⁴ Colijn, 'De overwinning van Vladimir Poetin'.

¹⁸⁵ K. Colijn, 'Wint Poetin of de EU?' (Version 11 December 2014)

<https://www.clingendael.org/nl/publicatie/wint-poetin-de-eu> (25 March 2016).

¹⁸⁶ Ibidem.

the annexation of the Crimea has severely damaged Russia's image as a reliable energy partner, thus uniting the MSs in the problem stream rather than dividing them.

Once the plans for the Turk Stream became less certain because of the volatile political situation in 2015, the Nordstream II gas pipeline became Gazproms primary project.¹⁸⁷ This pipeline can be seen as another effort to enter the EU gas market and circumvent Ukraine. In 2019 the gas contracts with Ukraine would need to be renewed. About this renewal of contracts Alexander Medvedev stated: "*Ukrainian transit won't be used any more even if the sun and moon switch places.*"¹⁸⁸ Despite these harsh words, the likeliness of Russia actually refusing to renew the contracts should be doubted. Russia will have severe transport problems if the Nordstream II is not operational in 2019.¹⁸⁹ In that case, it cannot fulfil the contractual obligations to EU MSs. Even with the Nordstream II, it is unlikely that Russia will fully refuse renewal of the Ukrainian contracts. The pipeline infrastructure continues to make Ukraine a strategic transit country, but Russia might try to give Ukraine a tougher deal, considering there will be alternatives transport routes. For the EU this time pressure on Russia means they might try to bargain a deal with Russia as late as possible. On the one hand this shows solidarity with Ukraine, on the other hand it increases pressure on Russia to accept demands within a limited timeframe. The higher the pressure on Russia gets, the better the potential deal for the MSs might become as Russia gets more desperate for a solution.

While not the primary concern of Gazprom, the idea of a South Stream continues to be used to entice MSs in SEE. The South Stream is not dead, and with plans at the ready (and some parts are already constructed) it is an enticing deal. Rather than seeing the Russian gas as a solely political tool, it can also be examined from a more market-liberal perspective. Author Mihalache approaches the South Stream in this manner.¹⁹⁰ In trying to find the

¹⁸⁷ Franza, 'From South Stream to Turk Stream' 18.

¹⁸⁸ E. Mazneva, 'Russia would see moon replace sun and still shun Ukraine for gas' (Version 9 June 2015) <https://www.bloomberg.com/news/articles/2015-06-09/russia-would-see-moon-replace-sun-and-still-shun-ukraine-for-gas> (8 January 2017).

¹⁸⁹ Franza, 'Outlook for Russian gas imports', 16-17.

¹⁹⁰ A. E. Milhache, 'South Stream is dead. Long live South Stream', (version 12 January 2015) <http://energypost.eu/south-stream-dead-long-live-south-stream/> (20 January 2016).

market forces behind South Stream, an interesting image is revealed. Rather than because of the failure to politically pit MSs against each other or to undermine the Third Energy Package, Milhalache states that the South Stream was cancelled because of financial reasons. The project became too expensive and when ENI and Wintershall pulled out this financial burden it became impossible for Gazprom to turn profitable. Construction costs continued to grow whilst projected European gas consumption declined and oil and gas prices crashed. The pipeline would possibly have caused an oversupply and cause gas prices to drop even further for the EU market.¹⁹¹ In order to save face, Gazprom cancelled the project in its dispute with the EC. The EC received the blame in an effort to pit MSs against the EC.

4.3 A step towards the Energy Union?

EC Vice President for the Energy Union, Maroš Šefčovič, said about the Energy Union: *“This is undoubtedly the most ambitious European project since the formation of the coal and steel community.”*¹⁹² He said this when he presented the ‘Energy Union for Europe Package’ in February 2015. The EC was aware of the ambitious goals of the energy Union, it would not be easy to implement the policies needed for this Union. The timing of the statement (shortly after the cancellation of the South Stream) fitted the efforts of the EC to use the created policy window swiftly. Attention on the problem stream would be limited; the EC had to move fast. As long as the problem of Russian aggression was deemed urgent enough, some of the policy of the ambitious plans of the EC had the possibility of being realized. The the ‘Energy Union for Europe Package’ was to secure further integration between EU MSs in the energy sectors. This would cause further supranationalism in the external energy policy of the EU.

An important effort of the the ‘Energy Union for Europe Package’ was related to an aspect from the 2012 decision that MSs should notify the EC about their intergovernmental agreements regarding energy cooperation and development of energy infrastructure.¹⁹³ The EC wished to have this oversight position in order to coordinate the shaping of the EU energy

¹⁹¹ Ibidem.

¹⁹² S. Van Renssen, ‘Brussels tests limits of its powers with Energy Union’, (version 27 February 2015) <http://energypost.eu/brussels-tests-limits-powers-energy-union/> (15 March 2016).

¹⁹³ Ibidem.

market. Preferably, the EC wanted to know what project the MSs were going to commit to, before they actually started cooperation or development. Before the 'Energy Union for Europe Package' it was not mandatory for MSs to inform the EC before committing to a deal. In the case of the South Stream the EC received six notifications regarding the South Stream, another 11 followed later.¹⁹⁴ These six notifications did not clarify to the EC whether the South Stream would follow the regulations of the TEP. The later notifications clarified that Gazprom did not intend to adhere to these regulations. The commitments to the project had already started before the EC was properly informed. The EC notified the MSs about their concerns regarding the projects conformity to the TEP in 2013, but MSs did not change their stance regarding the South Stream pipeline project. They had already committed and did not plan to change their policy due to sunk costs. It would be expensive for the MSs to halt construction and risk cancelling the project, whilst they had already invested in it.

In their 2015 'Energy Union for Europe package' the EC called for a change of this system of notification about intergovernmental agreements. The package would introduce an ex-ante assessment by the EC to check for compliance to internal energy market legislation. Only after the assessment the agreements are to be sealed.¹⁹⁵ Thus, with this new law, MSs would be required to inform the EC before commitment.¹⁹⁶ Because of this, MSs will have to take the EC opinion regarding the projects into account. EC analysis of their received intergovernmental agreements in previous years showed that they considered about 30% of the notified projects to not be compliant to EU energy legislation. This shows that the EC is much more demanding in the adhering to regulations than MSs. This oversight position would place any bilateral agreements in the energy sector between MSs and third countries

¹⁹⁴ Ibidem.

¹⁹⁵ European Commission, 'Press release IP/16/307 Towards Energy Union: The Commission presents sustainable energy security package' (Version 16 February 2016) http://europa.eu/rapid/press-release_IP-16-307_en.htm (15 March 2016).

¹⁹⁶ European Commission, 'Intergovernmental agreements in energy'

on the competence level of the EC.¹⁹⁷ Whilst MSs can still pressure the EC to accept or rethink their verdict, this would immediately put the MSs at odds with the EC. It is unlikely that a MSs would invest in a project that the ECV does not deem legal, as the precedent of the South Stream has shown that projects can be cancelled in an unsure situation.

Both EU Commissioners Maroš Šefčovič and Miguel Arias Cañete point to the South Stream as the prime example why this next step to the Energy Union should be taken. The South Stream was an essential event for the realisation of this policy. *“I see much stronger momentum to increase transparency.”*, Šefčovič stated.¹⁹⁸ Hungary opposed this change fiercely, but other MSs considered the change necessary. The change in policy was adopted through ordinary legislative procedure. The European Parliament and Council accepted the ‘Energy Union for Europe package’ after slight modification. Because no unanimity was required in the Council, the Hungarian opposition could be ignored. In March 2017, the law was adopted, largely in the way the EC had committed itself to.¹⁹⁹ Despite not being a huge change, this new law does force every bilateral deal with third countries to pass on a Commission level. On top of that, the policy has the potential to develop into a gap itself as the EC might wield its ex-ante assessment task differently than thought.

4.5 Conclusion

In conclusion this chapter has shown that there is no clear winner between Russia and the EU on geopolitical terms. The core concept of a gas pipeline circumventing Ukraine by passing through the Black Sea will likely continue to exist, but the EC had a modest victory over the project and has increased its control on regulation. The EC was unable to deliver an alternative to the energy security of MSs that lost their South Stream. It can help coordinate, for instance via the TAP project, but the EC had no short-term solution ready to replace the

¹⁹⁷ Euractiv, ‘Gazprom clause’ issues Russia ultimatum for energy co-operation’ (Version 20 September 2007) <http://www.euractiv.com/section/med-south/news/gazprom-clause-issues-russia-ultimatum-for-energy-co-operation/> (15 March 2016).

¹⁹⁸ Van Renssen, ‘Brussels tests limits of its powers’.

¹⁹⁹ European Commission, ‘EU rules on Intergovernmental Agreements in energy updated’ (Version 21 March 2017) <https://ec.europa.eu/energy/en/news/eu-rules-intergovernmental-agreements-energy-updated> (6 July 2017).

South Stream after its sudden cancellation. This is why there is no clear viable alternative and the concept of the South Stream continues to exist. It does seem that the EC has had a modest victory in maintaining the midstream within the EU. Renegotiating a midstream in Russian hands will become very difficult for Gazprom after this precedent

The role of the EC needs to be nuanced when looking at the cancellation. It is bad for possible bargains when MSs oppose Russian deals to directly. Instead it is better for the MSs to let the EC take a harsher stance against Russian projects and take the blame for thwarting Russian projects. In return, MSs can approach Gazprom with more goodwill and try to get the best possible deal. Russia also takes this approach of inflating the importance of the EC. Rather than stating that the South Stream was financially unprofitable, Russia presented the cancellation as the result of a politically active EC. This effort may have divided MSs on their perception of the EC, were it not for the loss of Russian credibility due to the Ukraine crisis. Despite these nuances, the EC did achieve a modest victory in legislation. With new laws allowing them to assess all energy deals with third countries in advance. This position of oversight could allow the EC to steer the EU towards their preferred energy future.

With this chapter, the last sub-question can be answered: What did the EC achieve in the period of bargains after the cancellation of the South Stream? There are two policies that the EC achieved: the halt of construction on the South Stream and the oversight position that allows the EC to give an ex-ante verdict on intergovernmental external energy deals. This oversight position was achieved in the period of bargains after the cancellation of the South Stream. The EC also set a precedent, preserving the TEP regulations against Gazproms efforts to control the EU midstream. The last two criteria to test Maltby's theory can be answered: (1) Was the situation resolved in clear consensus? There was reluctant consensus in the cancellation of the South Stream. Because it was the imitator that cancelled the project, MSs had no vote in the cancellation. When the EC halted construction, there was opposition from the MSs. Up to a point, the MSs held the EC responsible for the cancellation, but there was not much the MSs could do about it. Hungary opposed the oversight position the EC wanted, but other MSs deemed it necessary to prevent a nother project to be cancelled whilst construction had already begun. Reluctantly, the MSs agreed with the ECs actions. (2) Did the EC manage to achieve its preferred policies? The EC made modest steps towards a supranational Energy Union. The cancellation of the South Stream and the oversight position

for intergovernmental deals advanced the agenda of the EC. It is possible that the South Stream will return in a different shape, but a precedent has been set where the EC did not bow to the demands of Gazprom and participating MSs.

CONCLUSION

What has this case study shown? The future shape of the European Union is yet unclear, with criticism from populist parties within the MSs and the Brexit straining the EU. Whilst the European Commission had limited success in creating a more integrated European energy policy, a true Energy Union has yet to become a reality. The EC has had more success in the integration of internal energy policies, but does the case of the South Stream show a successful spill over to external dimensions of energy policy? Is this the policy entrepreneurship that Maltby identifies? To what extent did the European Commission showcase successful policy entrepreneurship in the cancellation of the South Stream?

The three occurrences Maltby identifies for an increased push for supranational energy policy also apply for the South Stream casus. These are (1) the enlargement of the EU in 2004-2007, (2) increasing EU energy imports and rising fossil fuel prices and (3) gas supply disruptions that showed the problem of endangered security of supply. The gas disruptions put the problem of energy security on the political agenda. MSs did not have to choose between policies; instead they allowed multiple options to compete. There was interest in both the Nabucco (for diversifying energy sources) and the South Stream (for security of supply). For the MSs it was logical to express interest in both projects, competition would bring the best deal. Besides the gas pipeline projects, MSs also agreed on the Third Energy Package. This package would create a consumer oriented energy market. An important part of the TEP was the unbundling of up-, mid- and downstream and the demand for special regulations for Third Party Access to the pipelines of non-EU companies. MSs saw it as a warning against Gazprom, as well as an answer to popular demand for stronger regulations as a response to the gas disruptions. At the time, opting for the Nabucco pipeline, the South Stream and the TEP seemed viable. However, the Nabucco and the South Stream were competing projects and the TEP evolved into a gap.

To understand the energy relationship between Russia and the EU, this thesis also used the interdependency theory of Keohane and Nye. This theory helped understand the complex dependency in the energy sector. It revealed that the EU considered the interdependent relation negatively, seeking to diversify its sources. Russia saw the

relationship positively, as Russia tried to increase its presence on the EU gas markets. Both the EU and Russia have geopolitical and market-economic motivations for energy policy. Russia can be considered to have a more geopolitical paradigm, aiming to use its energy resources as a tool of influence. The EU can be seen as having a primarily market-liberal focused paradigm. Creating a consumer-based market benefits the EU as prices will drop. There are however also geopolitical motivations for the EU. A fear of overdependence is a factor, but was considered less urgent when Russia seemed a reliable energy provider. The EC seems to put more emphasis on these long-term geopolitical factors than the short-term oriented representatives of electorates in MSs. The EC used the regulations of the TEP to postpone construction of the South Stream, but were not successful actually halting construction. This changed with the Ukraine crisis and especially after the Russian annexation of the Crimea. Suddenly there was a re-evaluation of the problem stream. Russia became unpredictable and unreliable. Politicians started calling for harsh measures against the perceived Russian aggression. While some participating MSs continued to defend the South Stream project, this did open a policy window for the EC. Together with US pressure, the EC managed to make Bulgaria halt construction. The stress became too much for the project, the South Stream was unilaterally cancelled by Russia. The image of the EC as a genuine actor needs to be nuanced. MSs and Russia have motivations to maintain this image of a responsible EC, in order to take this responsibility away from their own ability to bargain. Nonetheless, the EC did manage to achieve some modest advances. Intergovernmental agreements in the energy sector now need to be evaluated by the EC. This position of oversight can be a step towards further coordination.

For the criteria it has been shown that preferred energy futures of the EC and MSs showed overlap, but diverged in the long temporal dimension. Where MSs might take long-term bilateral gas agreements, the EC preferred an Energy Union in which all MSs shared the same prices for imports. There were possible gaps for the EC in the TEP. There was disagreement regarding the South Stream and the EC utilized the gap of the TEP. Existing legal framework did not clarify the situation as there was no precedent in which the EC had halted construction of such a large project against the wishes of MSs. It was not due to these disagreements that the project was cancelled, but it did disrupt and delay construction. The most important factor was the annexation of the Crimea by Russia. This caused a shift of

opinion. The problem stream received renewed attention as MSs lost confidence in Russia and ordered sanctions against Russia. The US also sanctioned construction companies of the project. The situation was not resolved in clear consensus. MSs were disappointed by Putin's announcement to cancel the South Stream. There were no clear viable short-term alternatives, but MSs did not want to appear too soft against Russia after the annexation of the Crimea. They had to accept the loss of the project. The EC did achieve its preferred policies. A South Stream with control of the midstream would not become a reality. The EC also managed to get a coordinating role, overseeing the intergovernmental agreements between MSs and third countries.

This study has shown that the EC can have a role as an actor, albeit a limited role. This case-study can add to the debate about the role of the EC within European integration and the importance of its political ambitions. The limited agency makes the EC into a more political force, that takes a slowly increasingly prominent place in the field of energy policy. As the EC becomes a more political force, it is important to pinpoint moments such as during the South Stream in which the EC showed how it can wield its influence. This spill over of influence from the internal to the external energy situation has set an interesting precedent. Future pipeline proposals need to consider the role of the EC carefully. Understanding how and when this role started is an important part of this consideration. The casus also reveals much about the creation of the Energy Union, as the EC showed it has influence in both internal and external dimensions. The casus has also tried to nuance the view of Russia as a solely geopolitical force in the energy sector, whilst the EU would solely be a market-liberal force. Both Russia and the EU show geopolitical and market-liberal tendencies. It is true that Russia shows a relatively more geopolitical approach with its majority state-owned Gazprom, but it is unfair to Gazprom as a company to approach every endeavour as a Russian political project.

The theoretical framework of this thesis has allowed for an institutionalist approach that can show the EC motivations and ideals. For its role as an actor it is essential to know what the EC wants and how it can achieve these goals. Downside of this approach is that there is few room for investigation of the casus from the perspective of MSs. MSs were divided about the project, each having a variety of motivations to support the project. For further research it would be interesting to take a look at the motivations of the MSs and

investigate up to what point the temporal dimension of MSs are a factor in their decisions. The scope and language barriers for a study into the participating MSs was too large for this case study. But also non-participating MSs of the project could be interesting to reveal the role of the EC as an actor in energy policy. An interesting example for research would be Germany. After the cancellation of the South Stream, Chancellor Merkel showed support for the revival of the project but did not actually undertake further action. What motivated Merkel to show this support? It is possible she was worried the EC would consider opposing the Nordstream pipeline as well. This pipeline (and its follow-up Nordstream II) supplying Germany with Russian gas via the Baltic Sea would be an interesting subject for further research. Gazprom did stick to TEP regulations with these projects. It would be interesting to compare why Gazprom did not choose to oppose the EC with the Nordstream projects and what the role of MSs was in the successful implementation. Nonetheless, there has been much discussion about the capacities at which Gazprom would be allowed to transport gas through the pipelines within the EU. Further research on the subject, possibly from a more MSs oriented perspective, could offer much information about the role of the EC as an actor in the creation of an Energy Union.

Another aspect that requires more research is the role of Gazprom and the companies that supported the construction of the South Stream. There is not much transparency about Gazprom's projects, but the financial background of Gazprom could reveal much about their ambitions for the South Stream. It would also be interesting to understand why Gazprom filed its Final Investment Decision before asking for an exemption to TEP regulations. This thwarted their own project. Understanding why this happened would reveal much about Gazprom's agenda and the influence the company has on the European external energy policy.

In conclusion, this thesis has shown that there are clear differing ideas of the energy future of the EU between MSs and the EC. The EC tries to take the role of an actor in the bargaining process for future policy, but also tries to be careful not to overplay its hand. The South Stream case reveals that this acting role is not only within the internal market of the Union, but also touches on the external agreements the EU makes regarding its energy policy.

Brochardt's words in the introduction of this thesis had come true.²⁰⁰ He stated that the contemporary intergovernmental agreements would not form the basis of the South Stream project, and that the EC had the right and means to halt construction. Whilst it is doubtful that the EC could have stopped the South Stream project against the wishes of participating MSs, it did manage to use the policy window created by the Russian annexation of the Crimea to push its own agenda. The EC could not have done this without the policy window, but showed itself as an actor on energy policy and certainly did not 'lose' the conflict against the South Stream. As Maltby identified, there is a trend of increasing (but still very limited) supranational governance. Whilst the story of the South Stream is far from over, a new variant of the pipeline that allows Russia to control the midstream of the EU seems unlikely. In that goal, the EC succeeded in its battle against the project.

²⁰⁰ *"What I can say is the intergovernmental agreements will not be the basis for the construction or the operation of South Stream. Because if the member states or states concerned are not renegotiating, then the Commission has the ways and means to oblige them to do so. And South Stream cannot operate under these agreements."*

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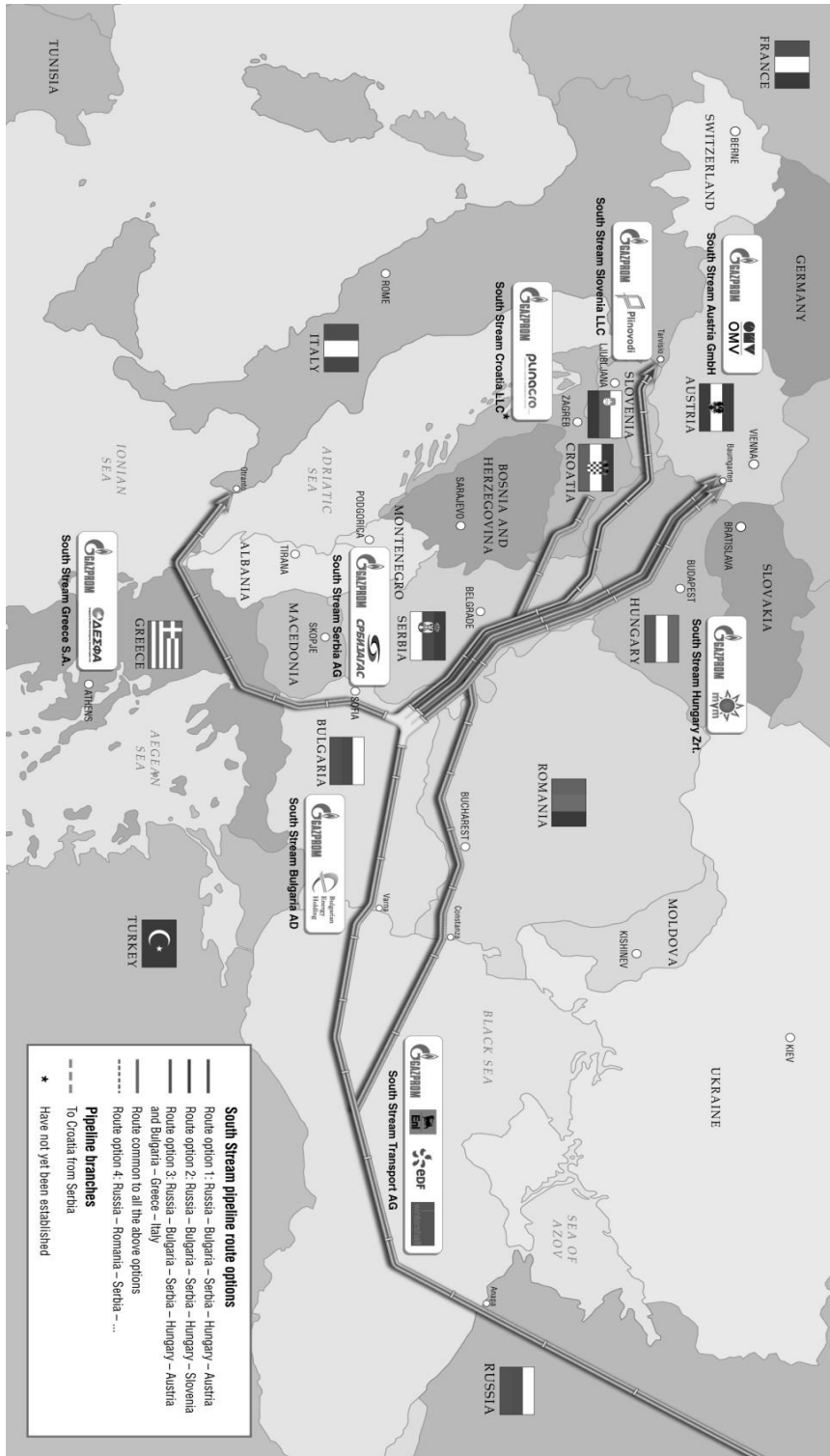
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APPENDIX

Illustration 3



© Gazprom. This illustration, as shown on Gazprom’s website, shows a variety of old plans for the South Stream gas pipeline. The definite plan would not beach through Romania and not branch off into Italy. <http://www.gazprom.com/f/posts/91/770635/southern-corridor-2-en.jpg>

Abbreviations

Bcm	-	Billion cubic metres
EU	-	European Union
EC	-	European Commission
FID	-	Final Investment Decision
LNG	-	Liquefied Natural Gas
MSs	-	Member States
PCI	-	Projects of Common Interest
SEE	-	South Eastern Europe
TAP	-	Trans Adriatic Pipeline
TEP	-	Third Energy Package
TPA	-	Third Party Access
TTIP	-	Transatlantic Trade and Investment Partnership