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KEEPING **CREDIBILITY.** WHY IT IMPORTANT TO IS REINFORCE EMERGENCY RESPONSE MECHANISMS IN THE DIALOGUE IEA BETWEEN THE AND ITS NEW PRIORITY COOPERATION **COUNTRIES**

Abstract

In October 2013, the International Energy Agency (IEA) launched an enhanced dialogue with a number of non-member states. Some of them are big consumers and some are also producers; all of them are emerging economies, and, as such, they are destined to play a very significant role in the evolution of the Agency in the years to come.

This paper argues that, in this context, preserving and reinforcing the IEA emergency response mechanisms is essential. If this aspect is not adequately tackled in the dialogue with new priority cooperation countries, the IEA will lose credibility as an energy security organization. And credibility is a key factor in the energy sector, where actors tend to exert an influence on each other by sending political signals, rather than by implementing political actions.

This paper concludes that, in order to preserve the emergency response mechanisms currently in place, a binding protocol should be signed between the IEA and its new priority cooperation countries.

KeyWords

Keywords International Energy Agency, Energy cooperation

KEEPING CREDIBILITY. WHY IT IS IMPORTANT TO REINFORCE EMERGENCY RESPONSE MECHANISMS IN THE DIALOGUE BETWEEN THE IEA AND ITS NEW PRIORITY COOPERATION COUNTRIES

INTRODUCTION

t the last Ministerial meeting of the International Energy Agency (Paris, 18-20 November, 2013), a joint declaration was signed by the IEA and six priority cooperation countries: Brazil, China, India, Indonesia, Russia and South Africa.¹

This long-awaited statement of intent, adopted by consensus, could be the starting point for enhanced cooperation with new key stakeholders. If sufficient strategic thinking and political will are put into it, this process could perhaps lead towards a future association agreement.

The International Energy Agency (IEA) needs to undertake an enhanced cooperation process with new major consumers and emerging economies. Founded in 1974 as a "cartel" of consumer countries, it represents an ever-smaller portion of global oil consumption.² In order to reverse this decreasing tendency, the Agency needs to embark on a long-term dialogue with new big stakeholders.

Only through an enhanced dialogue with emerging economies would the IEA be able to keep fulfilling its role as supply security system, intelligence provider and referent in the field of environmental policies. As IEA's founding father, Henry Kissinger, recently stated: "without additional countries that will have an increasingly important role in shaping the global energy system of the future, the IEA risks becoming

I See annex at the end of this text.

² Even if they remain the most important block of consuming countries, IEA member states account for a bit less than half of the oil demand and by 2035 they will account for about one third. This is due to new big consumers like China, that in 1995 was importing just 0.4 million barrels of oil per day; in 2008, it was importing more than 4.2 million barrels per day, more than France and Italy combined. But security of supply is not only linked to reserves. It is also linked to the decreasing refining capacity in some IEA countries.

outdated, irrelevant, and unable to effectively accomplish even its historical objectives".³ But this enhanced dialogue with other countries, while being necessary for the IEA's survival as a relevant stakeholder in the energy sector, should not be pursued at any cost: Emergency Response Mechanisms, which are an essential part of IEA's identity, should be preserved and even enhanced in the cooperation with new big consumers and emerging economies. Should energy security mechanisms not be adequately tackled in the cooperation with new counterparties, the IEA –which was born and remains an energy security agency- would risk losing credibility. And credibility is essential for the effectiveness of signaling strategies, which are the main instrument that IEA can use in order to have an impact in the energy sector.

I will develop the abovementioned thesis according to the following structure:

-Specificities of the energy sector and the importance of signaling strategies. In this section, I will discuss the peculiarities of the global energy regime, which is characterized by the existence of information asymmetries and scarcity of powerful multilateral bodies and agreements. In this peculiar context, where international public law is not fully developed and private companies keep a prominent role to the detriment of public multilateral actors, signaling policies are of particular relevance. I will examine two cases where the IEA has made use of a signaling strategy. When it comes to launching effective signals to other actors, credibility is an essential factor.

-What is the IEA response system for oil supply emergencies and why it still matters in order to keep IEA's credibility The IEA has expanded its activity to fields that are not necessarily related to energy security, but, thanks to the binding nature of its rapid reaction mechanism, it still enjoys a place among the very few organizations that are empowered with binding powers over their members. These binding mechanisms should be preserved. If emergency response mechanisms dilute in the dialogue with emerging economies –which are not bound by them- the Agency's credibility will be seriously undermined.

-How an agreement between IEA and non-member states on a new coordinated emergency response system could look like. A coordinated emergency response system could be included in a binding agreement between the IEA and its new key stakeholders. As far as it is binding for both sides, this agreement could take the shape of any multilateral document (treaty, protocol, memorandum). By adhering to it, new counterparties would commit to coordinate emergency responses with the IEA, and not to free-ride on the Agency's decisions. The Agency would commit to give some participation to non member-states into its decision-making structures, at least for these emergency situations. Cooperation with non-members already includes simulations of coordinated responses to emergencies (supply disruptions or

³ Kissinger, Henry, "The Future Role of the IEA Speech for the 35th Anniversary of the International Energy Agency October 14, 2009 - Paris, France.

price increases); I will go through the main advantages and difficulties that IEA's new counterparties experience with adopting these mechanisms.

I. THE SPECIFICITIES OF THE ENERGY SECTOR AND THE IMPORTANCE OF SIGNALING STRATEGIES. THE ISSUE OF CREDIBILITY. IS THE IEA A "CREDIBLE" ORGANIZATION?

1.1 The specificities of the "international energy regime"

The IEA is, arguably, a "sui generis animal" in the global energy regime. This organization can be counted among the few that can adopt binding decisions over member states.⁴ This is a particularly valuable asset in the energy regime, where multilateral actors and arrangements are characterized by their weakness and lack of binding powers (i.a. UN bodies, IEF, European Energy Charter).

Following a classical definition by Stephen Krassner, an international regime is as a set of explicit or implicit "principles, norms, rules, and decisionmaking procedures around which actor expectations converge in a given issue".⁵ This definition perfectly fits many regimes (v.gr. commerce, agriculture, aviation, intellectual property, telecommunications, disarmament) yet it is not entirely valid when applied to the energy sector, due to the following specific traits:

a) The energy regime is lacking a set of central multilateral institutions holding both the legitimacy and the power to impose rules on other actors. There is not such a thing as a multilateral energy agency, similar to those existing in other sectors (peace and security, Security Council; agriculture, FAO; civil aviation, OACI; trade WTO; culture and heritage, UNESCO; human rights, HRC). This is also true when focusing on the regional context, even if in recent years a number of very dynamic regional *ford*⁶ have emerged. The setting up of the main international energy organizations was not

⁴ See Scott, R. 1994. History of the IEA, p. 120. Available at: <u>http://www.iea.org</u>.

⁵ See Krasner, Stephen D., International Energy Regimes, Cornell University Press, 1983, p. 43.

⁶ Countries in other regions also formed regional energy organizations, namely the Latin American Energy Organization (known as OLADE, its Spanish acronym) in 1974, the Asia-Pacific Economic Cooperation Energy Working Group in 1993 and the African Energy Commission, a body of the African Union, in 2008.

intended as a way to structure the energy regime, but rather as a strategy to protect the interest of consumers or producers. That is, indeed, the case

- b) Even if conventional trade rules could apply to the energy sector, **structural factors make it particularly difficult referring to the WTO rules when talking about energy,** the most important being that energy resources typically belong to the State and that many countries have structured their petroleum and electricity sectors around state- owned enterprises. WTO rules are normally referred to access to markets, whereas the main issue in the energy sector is access to resources, not to final markets.
- c) Traditional main producers (IOC) also known as the "seven sisters" did not want the explicit interference of sovereign states. Where oil and gas resources used to be controlled by a small number of companies operating worldwide, that largely served the interests of energy-importing nations, since the early 1970s through nationalizations and accidents of geology those resources now lie mainly in the hands of national oil companies (NOCs). These states have gained immense wealth from their control over these resources.
- d) The energy regime has expanded from a single area (oil trade) to different sectors (gas, unconventional oil, environmental policies). These sectors have different, even conflicting interests. It becomes increasingly difficult to respond to expectations within a single regime.
- e) **The energy regime is rapidly evolving**, due to its changing object, which has an impact even in the framing of many basic concepts. Key concepts that shaped the regime three decades ago - the notion of "consumers" and "producers" - are also evolving as new forms of energy are found and technology is evolving; as well as concepts like "energy vulnerability" or "energy resources". The degree of social acceptability of different energy resources also shape the regime itself (v.g. the *Energiewende* in Germany).

While the reasons expressed could guide us towards concluding that there is no "global energy regime", some sort of global energy regime does exist: different –and sometimes conflicting- sets of norms and institutions regulating the energy sector often get integrated and form a fairly solid "normative network".

This is why some actors have referred to the energy regime as a "regime complex" rather than a single regime on itself.⁷ We could also refer to it as a regime *in the making*, with different subsectors having different degrees of intensity. This "energy regime complex" could be defined as a very sophisticated set of norms, rules and institutions that sometimes manage to create a convergence on expectations and, indeed, some kind of predictability.

⁷ See Colgan, Jeff et al., "Punctuated Equilibrium in the Energy Regime Complex", International Organizations Review, Springer Science, New York, July 2011.

Graphic n. 1 Actors intervening in the shaping of the international energy regime



1.2 The value of signaling strategies in the energy sector

Following James Walsh, "Signaling game logic has been applied to many areas of international politics in the past decade, including decisions to go to war, crisis bargaining, international economic negotiations, regional integration, and the foreign policies of democratic states. The signaling games approach assumes that states are unitary actors with a single preference ordering and set of beliefs".⁸ In the energy regime complex, the value of signaling is particularly relevant, given the absence of enforcing mechanisms for the decisions adopted.

Through signaling preferences and hinting at possible reactions, many actors contribute to shaping energy markets. Signaling strategies are a particularly common behavioral pattern among western democracies (and the IEA is a group of democratic

⁸ WALSH, James, "Do states play signaling games?" Department of Political Science, University of North Carolina at Charlotte, Charlotte NC 28223, USA, <u>jwalsh@uncc.edu</u>.

countries), whose soft powers are nowadays based on sending signals, rather than actually implementing actions.⁹

Signaling involves actions or statements that potentially allow an actor to infer something about unobservable, but salient, properties of another actor. Two elements seem to be of key importance for effective signaling: firstly, it should take place in an environment where lack of information is predominant (as previously observed, this is the case of the energy regime, characterized by the existence of information asymmetries) and secondly, it should be used by *credible* actors.

I will now focus on the meaning of credibility:

The concept of "credibility" gained popularity in the 60 and 70, with the behavioral studies on the conduct of the two big superpowers, particularly at the end of the cold war. Game theorists contributed to defining the concept of credibility in the following terms "To be effective in influencing the expectations of the opponent (and thereby help secure a good outcome), threats and promises, collectively called "commitments", have to be communicated properly and, crucially, have to be credible. If they are not believable, then the opponent will not revise its expectations". ¹⁰

Credibility could be defined as the perception among its counterparties that an actor will actually be in the position to implement the policies it is signaling out, either because it is actually able to do so, or because it has already done so in the past or because the costs of not bringing them to an end will be higher to those of actually implementing them. Effective signals must be credible, meaning that their remittent has to be seen as capable to take its political course of action to its final consequences.

In the energy regime, credibility is no less a key factor than in other sectors. In the producers' side, OPEC -as an international organization- and Saudi Arabia –as a major oil producing country- are significant examples. Both actors are capable of influencing the energy sector through frequent recourse to signaling, precisely because they are credible actors. In their case, credibility is founded on the grounds of their spare production capacity. Not only is the kingdom the world's largest oil exporter, but also it has kept spare production capacity amidst regular supply disruptions and has been willing to swing its production to balance the market.^{III}

⁹ See Garztke, Erik, signaling and the liberal peace, Yale, 2003.

¹⁰ POWELL, Robert "Nuclear Deterrence theory: the search of credibility", Cambridge: Cambridge University Press, 1990. Pp. viii, 230.

¹¹ Between 1980 and 1985, Saudi attempts to defend the marker price resulted in a large loss of market share: the demand for Saudi oil declined from 10 million b/d in 1980 to 3.6 million b/d in 1985. The loss of market share and revenues proved very costly and the administered pricing system was abandoned in 1985 in an effort to recover lost market share through the netback pricing system Similarly, in 1998, Saudi Arabia responded to Venezuela's increase in production and rapid capacity expansion by increasing its own output. Against a backdrop of declining oil demand following the

This gives Saudi Arabia's preeminence in the OPEC, which has been reinforced by steadily declining production in other OPEC nations.

In the case of the IEA, credibility is rather linked to the ability to react to major oil disruptions in a rapid and effective manner, thus acting as an effective security provider. Energy security is such a key issue for IEA's identity and credibility that even nowadays –when the time of major oil crises seems definitely over- every IEA Governing Board meeting in ministerial format ends up with a special reference to IEA's "key role in energy security through its emergency preparedness and response mechanisms and its legal instruments", and stresses "the need to comply with the IEA legal obligations with respect to oil stocks".¹²

Security is a key word for the IEA, the same way that energy should be for the Western European Union or NATO. According to Philip Cornell, "the relationship between international security policy and energy policy is not a one-way street. Just as tools of hard power may be able to play a supporting role to improve energy security, energy policy can have a significant impact on the international security environment".¹³

This emphasis on energy security¹⁴ places IEA in the same sphere as defense organizations. Even if it has evolved into a sort of energy think tank, its credibility remains firmly linked to its energy security capacities.

2. WHAT ARE THE EMERGENCY RESPONSE MECHANISMS, HOW THEY HAVE EVOLVED OVER THE YEARS AND WHAT ROLE THEY PLAY IN IEA'S SIGNALING STRATEGIES. SOME ADVANTAGES OF A BINDING PROTOCOL ON ENERGY SECURITY BETWEEN THE IEA AND ITS NEW PRIORITY COOPERATION COUNTRIES.

Asian financial crisis, the increase in output led to a collapse in oil prices.

¹² See IEA's ministerial chair summary, Meeting of the IEA governing board at ministerial level, November 11th, 2013, para 6.

¹³ See Philip Cornell, Regional and International Energy Security Dynamics: Consequences for NATO's Search for an Energy Security Role, Geneva Research Papers n 5, GCSP, January 2012.

¹⁴ Energy security could be defined as the uninterrupted availability of energy sources at an affordable price.

2.1 What are the emergency response mechanisms

The primary goal of the IEA was to mitigate the tasks and effects of oil supply disruptions. The agency was set up in 1974 in order to give a response to future disruptions like the one happening in the biennium 1973-74.¹⁵ The Agreement on an International Energy Program (IEP) the IEA founding document, starts by the words: "desiring to promote secure oil supplies on reasonable and equitable terms..." In accordance to Chapter 1 of the IEP, member states undertake the commitment to establish a system of emergency oil stocks.¹⁶

The IEA emergency response mechanisms were set up under the 1974 Agreement on an Energy Program system. They required IEA member states to hold stocks equivalent to 90 days of net oil imports. Among the several initiatives to structure a reliable energy debate,¹⁷ the IEA is, by far, the most successful one: in a similar position in the field of oil producers, the OPEC does not have means to impose a common line on its member states.

Today, energy security is no longer the only task of the IEA. Even if it originated as a reaction to governance shortcomings abruptly revealed with the oil price shock at the beginning of the 70, in the following decades the IEA has evolved into a different kind of Agency. A number of aspects had an incidence on this re-focusing, such as the drop in oil prices at the beginning of the nineties, the emergence of environmental concerns and the need of the IEA to become useful to its member states also on other domains beyond oil supply, such as gas or electricity.

In parallel to this evolution, the IEA energy security mechanisms have also experienced an evolution. The basic assumption that radically changed, leading to a certain discredit of the rapid reaction mechanism as it was designed in the 70ies, was that physical shortages in oil supply are not always the cause of increases in oil price. Therefore, focusing only on situations of quantifiable oil shortages was not enough.

This became self-evident with the second oil crisis, where, according to Toner: "the IEA's oil-sharing and demand restraint mechanisms were not relevant because oil imports for IEA member states never dropped by more than 7 %, which was

¹⁵ Before the IEA was set up, there was a softer security mechanism, with no binding obligations, named committee structure of the OECD.

¹⁶ Member states have to keep reserves of crude oil and/or product equivalent to 90 days of the prior year's average net oil imports. Special arrangements have been set for those countries that are net exporters.

¹⁷ The Latin American Energy Organization (known as OLADE, its Spanish acronym) in 1974, the Asia-Pacific Economic Cooperation Energy Working Group in 1993 and the African Energy Commission, a body of the African Union, in 2008.

the official automatic trigger for the collective emergency oil-sharing response. It was found later that the increase in oil prices had not been caused by fundamental changes in the oil supply–demand balance – in fact, the oil shortfall lasted only three months – but nevertheless the effects were severe".¹⁸

Against this backdrop, in 1984 the IEA secretariat proposed to the Council the adoption of resolution entitled "Decision on Stocks and Supply disruptions", adopted by the governing board in 1984,¹⁹ establishing the Coordinated Emergency Response Measures, also known as CERM. As the IEA governing board stated: "oil supply disruptions involving a significant net loss of world oil supply, whether or not sufficient to activate the I.E.P. emergency oil sharing system, could also result in severe economic damage to all nations of the free world. Especially if such disruptions were accompanied by public panic, they could result in exaggerated crude oil price increases not warranted by underlying oil market conditions. Member countries should therefore respond promptly and appropriately to those oil supply disruptions which appear capable of causing severe economic harm".²⁰

The CERM mechanisms added some flexibility to the existing emergency mechanisms, since it did not need to be triggered by a percentage-based disruption in oil supply.

¹⁸ Toner, G. (1987) 'The International Energy Agency and the Development of the Stocks Decision', Energy Policy, 15 (1), pp. 40–58.

Two Decisions of the IEA's Governing Board in 1981 and 1984, respectively, established the framework of the CERM program.[6] The IEA Governing Board noted that "oil supply disruptions involving a significant net loss of world oil supply, whether or not sufficient to activate the I.E.P. emergency oil sharing system, could result in severe economic damage to all nations of the free world. Especially if such disruptions were accompanied by public panic, they could result in exaggerated crude oil price increases not warranted by underlying oil market conditions. Member countries should therefore respond promptly and appropriately to those oil supply disruptions which appear capable of causing severe economic harm."[7] CERM measures include stockdraw (withdrawal from Member States' oil reserves) and other response measures in the event of "an actual or potentially significant oil disruption."

Graphic n.2. The evolution of the Emergency Response Mechanism.
IEA EMERGENCY RESPONSE MECHANISM (IEM)
Source: agreement on energy program
Focus on oil stocks (90 days net imports)
Authomatic trigger (7% disruption in oil consumption)
Never implemented
COORDINATED EMERGENCY RESPONSE MEASURES (CERM)
Governing board decision
Complementary measures
Inplemented on a consensual decision
Implemented in three occasions: 1991 Gulf War, 2005 Hurricanes in the Gulf of Mexico and 2011 disruption in Libyan supples.

As an overall assessment, the replacement of the IEP mechanisms by CERM brought positive and negative effects.

On the negative side, the experience has shown that the current emergency mechanism actually lowers the reaction capacity of the IEA as a group, since it cannot be automatically triggered. In the second place, the decision to activate this mechanism relies on consensus among member states, and this is not sometimes easily achievable in a context of crisis. Furthermore, its effectiveness fully depends on national implementation measures, which are not directly controllable by the IEA. According to article 66 of the IEA founding treaty, Member states should "take any measures, including any necessary legislative measures, to implement decisions taken by the Governing Board". But this has not always been so, as the case of hurricane Katrina has recently proven.

Nevertheless, when compared to IEP, CERM has proven to be a useful mechanism in the framework of signaling strategies. The lack of an automatic trigger leaves the final decision in each and every one of the member states, which have to gather in the Governing board and reach consensus on measures to be taken. Even by hinting at the possibility of using it –for example, with a press release in the aftermath of an IEAthe security mechanisms could provoke the desired effect in the energy sector. This is why CERM mechanisms can be much more useful as a signaling tool than IEP, which was an automatic mechanism.

2.2 Why the CERM still matters for the IEA credibility when it comes to signaling: a case study

As an intelligence provider, the IEA helps its member states constantly monitoring the market conditions, and, as an energy security agency, it can determine how and when releasing oil reserves. But sometimes even hinting at the possibility to activate that mechanism (without actually using it) can have an effect on the market conditions.

Constant observation of market conditions, readiness to intervene and to cooperate with industries and non member states within the framework of emergency measures can be as useful as actually implementing them. As the IEA Emergency Plans and Preparations stated in a lecture in 1991 "There has been no need to draw on our emergency stocks since 1991, but as was widely reported in the press recently, this does not indicate inactivity on our part. Indeed, as scenarios evolved in the wake of September 11th, the strike action in Venezuela, unrest in Nigeria and in Iraq, we were carefully assessing the situation on a daily basis and kept in close contact with our member countries, the oil industry and strategic non-member countries. We were ready to act in coordination with oil- producing countries, in particular, with OPEC countries, and the markets knew it. For these reasons, the possible risk of a supply disruption was minimized and price spikes and their duration were limited".²¹

This was the case in July 2012, when in the light of high oil prices, the British energy minister announced that the UK was ready to ask for the release of oil reserves. This led to an internal debate in the IEA Governing board, in which the possibility to actually release oil reserves was submitted to all member states consideration, with US and UK strongly pushing for that option.

The interesting fact is that several media spread this piece of news, so, as this debate was taking place in Paris, the energy sector was already speculating on the possible consequences of the IEA actually releasing its reserves (see graphic below). In parallel, the price escalation was contained, and oil prices reached a plateau, which lasted some weeks. Obviously, the IEA is not the only, nor the most important, actor having an impact on the oil prices. Nevertheless, the signal sent by the IEA on the possibility to activate the CERM must have had some influence on containing prices.

It can be thus concluded that CERM measures are effective not only when they are implemented, but also when they are contemplated as an option, and this signal reaches other actors in the energy sector.

²¹ Klaus-Dietmar Jacoby , The IEA Emergency Response System and its Capability, lecture at a Public Hearing on the Security of Oil Supply Obligation to maintain minimum stocks of crude oil and gas in the Committee on Industry, External Trade, Research and Energy of the European Parliament, 29 April 2003, Brussels.

Oil price falls as Britain says it is ready to call for release of reserves at the IEA

August 20, 2012, Reuters

The Government is monitoring the oil price and may call on the International Energy Agency to release its strategic reserves to cool prices, a spokesman has said.

The UK may ask for strategic reserves to be released by the IEA to cool prices as oil supply remains tight

The UK is prepared to ask the International Energy Agency (IEA) to take action to deal with high oil prices, but no decision has been made to release stocks, a energy ministry spokesman has said.

"We and our international partners continue to monitor the oil market and stand ready to call upon the International Energy Agency to take appropriate action as required.

No decisions have been taken to release stocks at this stage," the spokesman told Reuters. "The market remains very tight. This has a knock-on impact on the oil price and therefore the global economic recovery," he said.

IEA may release oil reserves as soon as September: report

August 24, 2012 Michel Rose and Jonathan Leff | Reuters

PARIS/NEW YORK (Reuters) - World oil consumers are poised to tap into emergency oil inventories as soon as early September after the International Energy Agency (IEA) dropped its resistance to a U.S.-led plan, a source and an oil journal said on Friday.

Just one week after its chief said there was no discussion of possible emergency action, the IEA is now thought to have agreed to the idea, the industry journal Petroleum Economist reported on Friday, citing unnamed sources. The release could be as large or larger than last year's 60 million barrel injection.



2.3 Some reasons in favor of signing a binding agreement on CERM with non member states.

Advantages for the IEA:

- **Preserving its role as security provider:** Following the "agency theory",²² in a world of anarchy, sovereign states delegate some tasks to international organizations. These faculties are both limited in time and scope, and can be reverted by sovereign states. The legitimacy of an international organization is, thus, ultimately referred to its capacity to fulfill expectations of its members. This is why, even if the agency has evolved in the last years, turning into a sort of independent "think tank",²³ it should still be able to deliver responses in terms of energy security. This would not be possible if its new main counterparties remain outside its security mechanisms.
- **Preserving the IEA's autonomous voice vis-à-vis big producers** has sometimes been criticized as hesitant organization. While the The IEA has the means to fight against supply disruptions, it is only in very exceptional cases that it adopts a last resort mechanism such as releasing oil reserves. The reason for this is that national reserves are not infinite, and they can be even more necessary if a crisis

Arthur Lupia. 2001. "Delegation of Power: Agency Theory." Published in Neil J. Smelser and Paul B. Baltes (eds.) International Encyclopedia of the Social and Behavioral Sciences 5: 3375 - 3377. Oxford, UK: Elsevier Science Limited

Traditional international relation theories analyzed international organizations as mere instruments for sovereign states. Contrary to this approach, the history shows that, once created, international organizations tend to develop some degree of autonomy vis-à-vis their own member states, becoming capable of making and developing independent decisions and pursuing their own objectives.

worsens. That is why, on a number of occasions, instead of directly acting, the IEA has relied in the dialogue with OPEC. By relying on the willingness and capacity of OPEC producers to supply missing oil promptly in response to a disruption, the IEA marginalises itself.

• Keeping the capacity to react: An IEA response delivers supply more quickly to consumers than producers could ever do. Under an IEA release, European refiners dip into crude and product inventories that they already own but cannot usually access. In contrast, crude from producers would take weeks to arrive at refineries, before processing and distribution. By using reserves, refiners could of course dip into commercial stocks in the meantime, but this is likely to lead to yet higher prices. CERM mechanisms provide the IEA with the capacity to quickly react to oil supply disruptions that can never be replaced by actions taken by big producers.

Advantages for IEA priority cooperation countries

Having to coordinate with IEA future rapid reactions in order to assure the energy supply would have a "sovereignty cost" for non-member states. They would lose the capacity to free-ride on the IEAs decision in case of a major disruption in the oil supply. Nevertheless, this might also bring benefits for them in terms of energy stability, discipline in the management of their reserves and integration in a westerndemocratic organization.

- **Supply stability:** It is in the interest of new big consumers, keeping relatively stable market conditions in oil and gas, since their growth very much depends from the availability of energy resources. The evidence of this is the number of exercises held between the IEA and non-member countries over the last years.²⁴ IEA could provide them with a useful mechanism in order to inject some price stability in cases of tightness in the oil demand.
- Access to information Due to the lack of serious energy disruptions that demands its intervention, the IEA has increasingly allocated its resources to the task of becoming a sort of big "energy think tank". In the last twenty years, and in particular since the IEA acted as the G20 technical secretariat with the occasion of the Pittsburg and Toronto Summits (September 2009 and September 2010²⁵) the role of energy guru of the IEA could not be easily challenged. Its most relevant annual publication, the *World Energy Outlook,* is widely recognized

²⁴ See infra page 24.

During the Pittsburgh Summit, the G20 requested the IEA, OECD, World Bank and OPEC to prepare a Joint Report on the scope of energy subsidies and suggestions for the implementation of their phase-out initiative. The Joint Report was presented to the G20 Toronto Summit in June 2010, during which country-specific implementation strategies and timetables were tabled.

among the authoritative sources for global energy projections. By embarking on a stronger partnership with the IEA (for example, by full adhering to its emergency response mechanisms), priority cooperation countries could have full access to the analysis capacity of the IEA.

- **Discipline in the management of stocks.** Being subject to the discipline of the IEA, the public administrations of non-members would apply to themselves international standards in terms of energy stocks management. IEA Member states are already subject to periodical (five years) review cycles of their capabilities, as well as to constant simulations of emergency disruptions. Having access to these mechanisms will strengthen non-member states preparedness vis-à-vis possible crisis.
- **Democratic legitimacy:** it has been observed²⁶ that membership of some international organizations can contribute to enhancement of the perception of predictability of non-democratic regimes. Even in those regimes where there is no accurate system of checks and balances, being in good terms with an organization that is ruled by democratic principles can contribute strengthening its members' reliability. In the energy regime, an association with the IEA would give the markets a strong sign on the reliability of each of its actors, even those not fully integrated into its decision making mechanisms. Therefore, even for those countries that cannot be considered democratic regimes, membership (or partnership) of some international organizations with an indisputable democratic pedigree can contribute to the perception of predictability of their own behavior, and therefore strengthen predictability of the whole energy supply and demand system.

3. HOW A BINDING AGREEMENT ON ENERGY SECURITY BETWEEN IEA AND ITS NEW PRIORITY COOPERATION COUNTRIES COULD LOOK LIKE: PROBLEMS AND ISSUES OF COOPERATION ON EMERGENCY RESPONSE MECHANISMS

²⁶ See OWEN, Erica, FANG Sonying, "International Institutions and Credible Commitment of Non Democratic Governments", The Review of International Organizations, Vol. 6 N. 2, Springer, London, April 2010, pp. 142-159

3.1 Possible alternatives for the cooperation framework

Article 12 of the Agreement on an International Energy Program provides a sound legal basis for a wide range of options.²⁷ The answer to this question depends on the expectations put by both sides on this new framework. Two different scenarios could be imagined, and the most likely future of the association process being somewhere in between.

a) The unambitious scenario. The association process could limit itself to being no more than a diplomatic platform for dialogue with partners. Should this be the case, the IEA could draw some useful lessons from past experiences of other international bodies embarked into similar association processes.²⁸

In the unambitious scenario, new partners would not have to accept any kind of binding commitment towards the IEA: they would simply participate to some ministerial meetings (as they have already done a number of times), and could occasionally take part in joint exercises and simulations, particularly in the field of energy security. In the unlikely event of a major oil disruption happening, an extraordinary ministerial could be held, either in Paris or in one of the new partners' capitals, in order to get a common assessment of the situation and give a diplomatic sign of a coordinated response.

But, at the end of the day new big consumers would remain with free hands as to the strategy to be followed. In addition, they would have some competitive advantage vis-à-vis IEA countries, since they would gain an insight on IEA decision-making, even if they were not actually bound by its decisions.

b) The ambitious scenario: If the IEA really wants to make a "qualitative jump", this association with new big consumers should be vested with some binding agreements. In our view, this new relation should reinforce the energy security system, since this is the main field of competence

²⁷ In order to achieve the objectives of the Program, the Agency may establish appropriate relationships with countries which are not Participating Countries, international organizations, whether Governmental or non-Governmental, other entities and individuals.

The OECD's Enhanced Engagement (2007); NATO, Partnership for Peace (1993) and ASEAN regional Forum (1993) could be good examples. All these diplomatic initiatives have contributed to building new bridges between concerned organizations and new key partners; but none of them has been of much us when it comes to reinforcing the organization itself.

As far an energy security is concerned, the IEA emergency mechanisms²⁹ have only been activated twice in the past, and in neither case the rigid measures set by the treaty (including voting procedures) where actually used. In 1995, the mechanism further evolved into an even softer rapid reaction system, called "Coordinated Energy Responsive" measures, which virtually vested the Agency with the capacity to react to minor oil disruptions by releasing part of the oil reserves and undertaking other secondary measures. This mechanism was first used during the crisis in Libya, in 2011.

New big consumers would not be bound by either of these schemes. That's why, in order to preserve the Agency's credibility, it would be essential that new partners commit to, at least, respecting the effectiveness of IEA Collective Actions and Security of Energy Supplies. From their side, the IEA countries should commit themselves to taking into consideration the associated states' views in the case of a major supply disruption.

This commitment not to contradict IEA's decisions in the framework of security of supply should be binding for both sides, so that none of them could disengage from its responsibilities towards the energy security of the others. In order to make this requisite acceptable for the new members —which could regard it as a loss of sovereignty- an opt-out clause could be included. It should be made clear that this opting-out clause is a last resource mechanism, only to be applied in case of a clear collision between the new partner's sovereign energy interest and those of the IEA countries.

Other measures in support to a collective system would consist of establishing a bilateral contact point with the IEA, in order to rapidly exchange assessments and information should a major disruption occur; Participating in regular Emergency Response Reviews (ERR); Making best endeavors to contribute to and support comprehensive energy security of IEA Member and Partner countries and coordinating views on environmental issues on the eve of big climate summits take place.

In the case of the new association countries, commitments concerning energy security would entail different levels of difficulty. Nevertheless, they should all be in the position to take binding engagements with the IEA, as far as the IEA countries are ready to be bound by the same commitments. Country by country, this leads to the following assessment:

It should be remembered that the IEA imposes to the member states three different commitments: The 1974 International Energy Program (IEP) established three core commitments for each member state: i) to maintain national oil reserves, now set at 90 days' worth of net oil imports; ii) to have ready a program of demand restraint measures equal to 7% and 10% of national oil consumption; and iii) to participate in an oil allocation system if necessary in a severe emergency.

The recently launched association process seems a valid framework, with potential to develop into a real association. But, in order to be really meaningful, this association needs to develop towards some form of binding agreements around some very basic ideas. It should not be forgotten that, even if the IEA has been slowly evolving into a sort of big "think tank" and information provider in the energy field, its main "raison d'être" is still giving effective responses to oil disruptions. Therefore, the association process should reinforce the IEA capacity to contribute to energy security.

In order to achieve this goal, it is essential that newly associated countries commit themselves not to act against IEA decisions relating to the IEA response system to oil disruptions. Far from being a merely declarative or unilateral commitment, this engagement should be the object of an international binding agreement. This agreement could be a protocol.

A protocol is a legal instrument that supplements or amends an international treaty. It is relevant enough to include binding provisions, and flexible to permit tailor made solutions for different countries. The CERM was put in place through a much less important document, legally speaking: a Council resolution. But we should remember that in this case IEA members where already bound by the commitments in the framework of the Agreement on an International Energy Program, which was not at all the case with the new priority countries.

Should this not happen, then the IEA and its new partner countries could simply be consolidate a sort of platform for the exchange of ideas and assessments, similar to the International Energy Forum based in Riyadh. It would be a useful, albeit limited, diplomatic platform. This would mean that the IEA and its new partners would keep their traditional good friendship, but nothing more than that.

3.2 How could the Energy Security Mechanism be preserved and what kind of difficulties the new stakeholders might face

General mechanisms included in the CERM, having *de facto* replaced the more burdensome rapid reaction mechanisms of the seventies could be accepted by new partners, even on a compulsory basis. Countries like India, China or South Africa could feel reassured by the fact that, thanks to the consensus rule which is applicable to the CERM, they would always keep the last word on when and how it should be implemented. This could be an acceptable arrangement for countries like China and India, which seem to have a preference for less formal and non-binding relationships with non-IEA members.

For a number of years, the IEA has already been working on the creation of big national stocks in some of the new key cooperation countries. Emergency Response simulation exercises have been organized from China, India and ASEAN countries since 2002. Officials form China, India ASEAN and central Asian countries have been benefiting from training in emergency preparedness and since 2006 high ranking officials from China, India, Thailand and Indonesia have participated in IEA committees and board meetings.

Nevertheless, there are still difficulties that priority cooperation countries should overcome in the process of adopting CERM mechanisms, depending on their position in the energy sector, their different degree of political and socioeconomic openness and previous cooperation experiences with IEA and other economic fora.

Brazil is a net oil exporter and one of the major non-OPEC producers of crude oil. The country's potential contribution to IEA emergency response and the sharing of energy data could be sensitive due to the classified nature of some of them. **China** is fully aware of the importance of gas and oil stocks and over the last years it has engaged in the building up strategic oil stocks and storage efforts. Information on such strategic stocks, like in the previous case, is not always publicly available. Nevertheless, China already cooperates on providing energy statistics in several frameworks, notably the Asia Pacific Economic Cooperation (APEC) and JODI oil and gas questionnaires.

The IEA's relationship with **India** on energy security is arguably the most advanced among the Partner countries. A memorandum of understanding was signed in 2011 on Co-operation on Oil and Gas Security, aiming at approaching India to IEA's collective action on energy security. With **Indonesia**, prospects for fulfillment of the provisions on energy security look positive, the country having already participated in a number of Energy Reviews with other IEA Member countries. On the contrary, to date, the IEA has had very limited co-operation with **Mexico** and **Russia** in the field of energy security, their situation as a net oil producers being similar to the one of Brazil.

CONCLUSION

The IEA is currently undergoing an "existential crisis", similar to what some other European security organizations (SCEO, NATO, WEO) underwent at the beginning of the nineties. In order to keep its place in a changing word, it has to build strong links with the new big economies. In particular, the Agency needs to take the major consumers on board. But not only: having a sound dialogue with countries such as Brazil or Indonesia –which are economic motors in their own regions- is an added value.

In this open-ended cooperation process with new Key stakeholders, preserving credibility is essential. The Agency is not merely a forum for diplomatic exchange, as the IEF or the Energy Charter Secretariat. Since its foundation, at the beginning of the seventies, it has had a clear security dimension, similar to that of a mutual defense alliance. The International Energy Treaty, on which the Agency is built, provides it with a solid platform of binding provisions based on the idea of rapid reaction mechanisms. Over the years, these mechanisms have become more flexible and adaptable to the changing nature of supply disruptions.

Credibility is essential asset to any actor, in particular those operating in the international energy regime, which is not structured by the presence big multilateral fora and binding treaties. In this context, and in order to keep the capacity of credibly shaping the energy world through sending credible signals, the IEA needs, at least, to get the engagement of its new partners on its rapid reaction mechanisms. In order to preserve credibility, the IEA needs to preserve its emergency response mechanisms.

CERM is an evolved set of mechanisms that could be easily adopted by priority cooperation countries, basically because it can not be automatically triggered and needs consensus. New stakeholders would always have a say on the activation of these mechanisms. A protocol could be signed with these new key stakeholders, on order to assure their engagement with CERM measures.

If these mechanisms are not preserved, the Agency will most likely undergo a profound transformation in the years to come, evolving from its current status (almost that of a security agency vested with binding powers) to that of a diplomatic platform for information exchange. Should this happen, the agency will lose an important part of its weight, and therefore, its credibility seen in terms of its capacity to exert and influence in the energy regime through signaling.

Enhanced cooperation with new priority countries puts current IEA emergency reaction mechanisms at stake. If this important aspect of the IEA role and identity is ignored or simply circumvented by the cooperation framework, the IEA would lose credibility as an energy security agency. Actors would start challenging its capacity to react in an effective and timely manner to possible supply disruptions or dramatic price increases. In the worst-case scenario, the loss of credibility would eventually affect IEA's overall capacity to send strong signals to the actors in the energy sector. As a consequence, the agency would no longer be able to fulfill its tasks as security mechanism and intelligence provider. What nowadays is an efficient and reputed energy agency could end up by turning into a decadent diplomatic/technical forum, divested of whatever degree of real influence on the energy sector. Unfortunately, there are many examples of this kind in every aspect of today's multilateral life.

ANNEX I

JOINT DECLARATION BY THE IEA AND BRAZIL, CHINA, INDIA, INDONESIA, RUSSIA AND SOUTH AFRICA ON THE OCCASION OF THE 2013 IEA MINISTERIAL MEETING EXPRESSING MUTUAL INTEREST IN PURSUING AN ASSOCIATION

Paris, 20 November 2013

The IEA and Brazil, China, India, Indonesia, Russia and South Africa ('Partner countries') taking part in this IEA Ministerial Meeting take this opportunity to announce their intention to pursue closer co-operation on the basis of a common understanding that global energy challenges and energy security require shared solutions by producer, consumer and transit countries.

This intention to initiate multilateral co-operation builds upon the extensive bilateral work programs that have been jointly developed by the IEA and individual Partner countries in recent years. Co-operation, which has been based on the principle of equity and mutual benefit in the pursuit of common interests, promotes the shared interests of IEA Member and Partner countries and can help to increase the transparency and effective functioning of international energy markets. Acknowledging the strong and fruitful co-operation that already exists, but convinced that today's energy challenges call for even closer collaboration in a broader setting, the IEA and Partner countries intend to further increase their co-operation.

An association would provide an efficient, voluntary means to work together on the basis of equity in areas of mutual interest, including: increasing information-sharing on common energy challenges and best practices; energy security; transparency and analysis of energy markets; energy technologies, energy efficiency and renewable energy; and other topics of mutual interest. An association would also provide a common forum for regular dialogue between IEA Member and Partner countries via participation of Partner countries in meetings of various IEA Standing Groups and Committees as well as at this and future IEA Ministerial Meetings.

We plan to work jointly and co-operatively as we make best endeavors to reach an understanding to develop an association in a manner that will capture both the benefits and responsibilities of IEA Member and Partner countries in association.

ANNEX II

SUMMARY OF THE CHAIR, THE HON. TANER YILDIZ, MINISTER OF ENERGY AND NATURAL RESOURCES, TURKEY (EXCERPTS)

2013 Meeting of the IEA Governing Board at Ministerial Level 19-20 November 2013

This year's IEA Ministerial was held with the participation of 28 member countries. Brazil, Chile, India, Indonesia, Mexico, People's Republic of China, the Russian Federation and South Africa were also represented. 32 high level executives from the international energy business added to the success of the Ministerial.

In the 40th anniversary of IEA's founding, Ministers' discussions were centered around the policy strategies needed to cope with the challenges presented by the shifting energy landscape and geopolitics that have direct impact on the global energy markets. Recognizing energy security as the foundation of the IEA's mandate, Ministers agreed on the need to promote the secure, affordable and efficient supply of energy.

At the turn of its 40th anniversary the mission, role and the work of the IEA, both for its members and beyond, have been reaffirmed as relevant and important for international cooperation and global solutions to address global challenges as it was in 1974.

Ministers expressed their intention to deepen policy dialogue with other key partners, other countries and regions based on mutual benefit and interest. They called for strengthening initiatives with key partners, major emerging economies and regions to have a sustained and result oriented dialogue on global energy security, economic competitiveness and sustainability. They welcomed that this cooperation is solidified by the renewal of bilateral Joint Statements and Work Programmes between the IEA and its partners. In the same spirit, Ministers welcomed the Joint Declaration by the IEA and Brazil, China, India, Indonesia, Russia and South Africa on the occasion of the 2013 IEA Ministerial meeting expressing mutual interest in pursuing an association.

BIBLIOGRAPHY

- Colgan, Jeff *et al.*, "Punctuated Equilibrium in the Energy Regime Complex", International Organizations Review, springer sicence and business media, july 2011.
- Cornell, Philip, Regional and International Energy Security Dynamics: Consequences for NATO's Search for an Energy Security Role, Geneva Research Papers n 5, GCSP, January 2012.
- Garztke, Erik, signaling and the liberal peace, Yale University, Washington, 2003.
- Jacoby, Kaus Dietmar, The IEA Emergency Response System and its Capability, lecture at a Public Hearing on the Security of Oil Supply Obligation to maintain minimum stocks of crude oil and gas in the Committee on Industry, External Trade, Research and Energy of the European Parliament, 29 April 2003, Brussels.
- Kissinger, Henry, "The Future Role of the IEA Speech for the 35th Anniversary of the International Energy Agency October 14, 2009 Paris, France.
- Krasner, Stephen D., International Energy Regimes, Cornell University Press, London, 1983.
- Luciani, Giacomo et. al., "The International Energy Agency (IEA), the Organization of Oil Exporting Countries (OPEC) and the International Energy Forum (IEF): the elusive quest for institutional cooperation in oil and gas international trade", POLINARES, Working paper N. 60.
- Lupia, Arthur, "Delegation of Power: Agency Theory." Published in Neil J. Smelser and Paul B. Baltes (eds.) International Encyclopedia of the Social and Behavioral Sciences 5:. Oxford, UK: Elsevier Science Limited, 2001.
- Owen, Erica, Fand Sonying, "International Institutions and Credible Commitment of Non Democratic Governments", The Review of International Organizations, Vol. 6 N. 2, Srpinger, London, April 2010.
- Powell, Robert "Nuclear Deterrence theory: the search of credibility", Cambridge, Cambridge University Press, 1999.
- Scott, R., History of the IEA, International Energy Agency, Paris, 2004,. Available at: <u>http://www.iea.org</u>.
- Van de Graaf, Thijs, "Obsolete or Resurgent? The International Energy Agency in a Changing Global Landscape", Energy Policy, 48 (2012), 233-241.
- Walsh, James, "Do states play signaling games?" Department of Political Science, University of North Carolina at Charlotte, Charlotte NC 28223, USA<u>.</u>