Capturing Contestation in Caspian Energy: Regime Complexity and Eurasian Energy Governance

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Abstract

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

Key words: energy governance, Caspian region, energy security, regime complex

Introduction

The argument of this article is two-fold. Firstly, it seeks to demonstrate how the concept of regime complexity can be employed heuristically to characterise the nexus of multiple, overlapping, partially competing institutional energy structures that pertain in the Caspian region (Keohane & Victor, 2010). Secondly, using a modified understanding of regime complexity that incorporates a critical understanding of regimes (Gale, 1998), this article explains why the energy governance in the Caspian Sea region presents such a fragmented and inchoate picture.

The concept of regime complexity (Keohane & Victor, 2010; Alter & Meunier, 2009; Prantl, 2010; Colgan, Keohane & Van de Graaf, 2011), carrying with it the intellectual heritage of regime theory studies, provides an effective heuristic tool for explaining both the contested and cooperative nature of Caspian energy governance. Taking Keohane and Victor's

conceptualisation of a regime complex as a starting point, the particular application of regime complexity in this article is further reinforced by concepts from critical regime theory that draw attention to the interplay between shared and contrasting normative preferences and competing material power capabilities in the formation of regimes (Gale, 1998: 273). These ideas permit an examination of the features and causes of the complex, contested and fragmented system of energy cooperation in the Caspian region – a region of central importance for EU external energy policy (EC, 2011: 5; 2008: 9; 2007: 25; 2006: 16).

EU upstream energy governance is an under-researched area of study, particularity in the Caspian. While there has been a great deal of research on regional geopolitical competition over energy resources and pipeline routes between China, Russia and the 'West'[1] (including the EU), only a small number of works have focused specifically on energy governance in the South Caucasus and Central Asia. Padgett (2011: 2-4), for example, provides a useful conceptualisation of the types of arrangements that the EU has concluded with the countries in its periphery, noting that with the states in the Mediterranean and the Caspian Sea regions, the EU's agreements tend to be ordered bilaterally in partnership agreements. This is explained by the lack of EU hegemony in the region and by the distribution problems in energy – points discussed further in this article. Padgett (2011: 2) notes however, that beyond his findings, there has been 'little research into the institutions that the EU has created in the attempt to consolidate its relations with strategically important energy partners in the wider Europe'.

To this one might add that analyses conceptually addressing the fragmented and overlapping nature of energy governance in the Caspian region or the place of the EU's governance initiatives within this broader array of regional initiatives are also lacking. The concept of regime complexity[2], particularly when combined with a critical-structuralist understanding of regimes, is able to draw attention to both cooperation and contestation in the region over different normative structures that pertain to energy. Furthermore, it is able to capture conceptually the balancing of the states to which these governance structures are intended to apply as well the role of institutional energy politics in the broader politics of the region.

This article is divided into three sections. The first section introduces the concept of regime complexity (Keohane & Victor, 2010) and expands on it by employing insights from critical regime theory to explain regime complex formation (Gale, 1998). The second section draws attention to the constellation of energy governance in the Caspian region (formed of Russian, Chinese, EU and UN initiatives) and demonstrates how the concept of regime complexity corresponds well to this array of different, overlapping and competing structures. The final section offers an explanation, based on the theoretical ideas outlined in the first section, of the key factors that lie behind the regime complexity in the Caspian region - focusing in particular on normative and material contestation, the regional balancing of Caspian states and distribution problems inherent to energy governance in this region.

[1] For a (very small) sample of this focus of analysis see Liao, 2006; Anand, 2006; Cohen, 1996; Menon, 2003; Işeri, 2009 amongst many others.

[2] For other applications of regime complexity to energy policy see Prantl (2010) and Colgan, Keohane and Van de Graaf (2011).

Regime complexity

Regime complexes can be contrasted against integrated, comprehensive international regimes (Keohane & Victor, 2010; Alter & Meunier, 2009; Raustiala & Victor, 2004). Integrated comprehensive regimes come about when a number of actors' interests and beliefs converge on the parameters of a governance framework and (usually) an institution is established to implement them. However, as Keohane and Victor (2010: 2) assert when actors agree to an extent on several interlinked issues, but *preferences are not* sufficiently shared as to create a common single institutional framework, regime complexes are more likely than single regimes.

Raustiala and Victor (2004: 279) describe regime complexes as 'an array of partially overlapping and non-hierarchical institutions governing a particular issue area. Regime complexes are marked by the existence of several legal agreements that are created and maintained in different fora with the participation of different actors.' They are therefore a number of interlinked initiatives and policies with varying, overlapping memberships each individually addressing a smaller part of a bigger policy whole (Victor & Raustiala, 2004: 279; Keohane & Victor, 2010: 2).

It should be noted that regime complexity can be seen as being part of a continuum from completely disparate unconnected regimes, through to regime complexes and ending with integrated regimes (Keohane & Victor, 2010: 2). Employing the idea of a continuum is useful as it draws attention to the fact that there are varying degrees of regime complexity on particular issues in particular geographical areas.

Keohane and Victor (2010: 2) note that situations of regime complexity are thought to be most likely at times of political uncertainty, policy flux and in policy areas characterised by a multiple problems - a situation they refer to as 'problem diversity'[3]. Keohane (2011) adds to this that regime complexity is more likely in issue-areas where cooperation problems overlap with other governance areas. Under these circumstances actors are thought to find regime complexes more realistic to establish, more flexible and more politically expedient than any integrated comprehensive regimes that could be created under these conditions (Keohane & Victor 2010: 2)[4].

A critical theory of regime complex formation

While Keohane and Victor may be right in seeing regime complexes as easier to establish than comprehensive regimes, an alternative (more critical-structuralist) reading could see regime complexity as a symptom of fragmentation, division and contestation over the normative principles applicable to a particular policy area. This shift of perspective is perhaps best encapsulated by Cox's (1986: 208) distinction between problem-solving and critical

[3] As reflected in contemporary Eurasia.
[4] See also Prantl (2011).

theory. Keohane and Victor's approach is broadly consistent with problem-solving theory in that it tries to develop solutions to a complicated policy issue. While sympathetic to Keohane and Victors' objective, the approach of this article however, is more in line with critical theory in that it seeks to understand and explain the structural conditions that lead to a state of affairs, in this case regime complexity (Cox, 1986). While it is quite possible that a regime complex is preferable to no regime, treating regime complexes merely as prospects for sub-optimal cooperation risks both making a virtue out of necessity and, from an analytical point of view, underemphasising the causes of divergence that hinder the establishment of an optimal comprehensive regime.

In an effort to explain the reasons for regime *complex* formation (as opposed to the formation of comprehensive regimes) this article suggests turning the assumptions of regime formation on their head. The establishment of comprehensive regimes (as mentioned above) is traditionally seen by scholars to be conditioned either on the shared nature of preferences between actors on the principles and norms of a governance structure or on the imposition of regimes based on the coercive or co-optive power of predominant actors (Young, 1982: 185). Krasner (1982: 185) for example argues that regimes are formed by the convergence of international actors around a number of principles, norms, rules and decision-making procedures. Contrastingly, more realist and structuralist views of regime formation see international regimes as resting on the power of a hegemonic leader. Young (1982: 284) argues that *imposed orders* (his term for hegemonic regimes) are created by a hegemon (or a consortium of dominant actors) in their interest via either the coercion or cooption of other actors. Here Young (1982: 284) makes a distinction between *overt hegemony* that refers to situations of coercion where a dominant power 'openly and explicitly articulates institutional arrangements and compels subordinates to conform to them' and *de facto* hegemony where 'an actor is able to promote institutional arrangements favourable to itself through various forms of leadership and the manipulation of incentives'. These ideas have a long pedigree in realist thought. As Carr (1981: 100) argued in *The Twenty Years Crisis*, 'international government [Carr's term for international institutions] is, in effect, government by the state which supplies the power necessary for the purpose of governing'.

However, in understanding *regime complex* formation, where single integrated comprehensive regimes are not present, it is necessary to look at the problem of regime formation the other way round. It is not sufficient to look merely at shared values and interests or the role of a hegemonic provider(s), but rather it is helpful to draw attention to a *lack* of shared preferences (or partially shared preferences) and/or the *absence* of an actor capable of co-opting or coercing others into its preferred structures. Critical regime theory provides useful frameworks for the investigation of these ideas.

Gale (1998: 270) forwards a critical view of international regimes, based on Cox's (1986) notion of historical structures. Historical structures are an amalgam of forces and social institutions that apply in a given place and time and that shape human interaction. Three types of forces are said to interact in a given historical structure; material power capabilities, ideas (normative preferences) and institutions (Cox, 1986: 218). There is no one-way determinism between these forces; each is mutually constitutive of the others. Gale (1998: 273) argues that Cox's understanding of institutions corresponds closely to the concept of regimes and that a

more coherent understanding of international regimes can be derived from analysis of the tri-directional interaction with the other two elements of a historic structure – power and ideas (see figure one).

Importantly, by seeing institutions as constituted of ideas and power capabilities in this way, Gale forwards a perception of regimes and their specific institutional organisations as possible arenas of competition over the normative and material structures that relate to a given policy area. By seeing institutions as a potential locus of competition, Gale (1998, 270) problematises and opens up for investigation the degree of imposition of hegemonic material power and the convergence of actors' interests around a set of norms and values. As will be seen, this notion of normative and material competition has direct relevance for explanations of regime complexity. Firstly however, it is necessary to briefly explain further these three factors (material power, ideas and institutions) and their interaction.

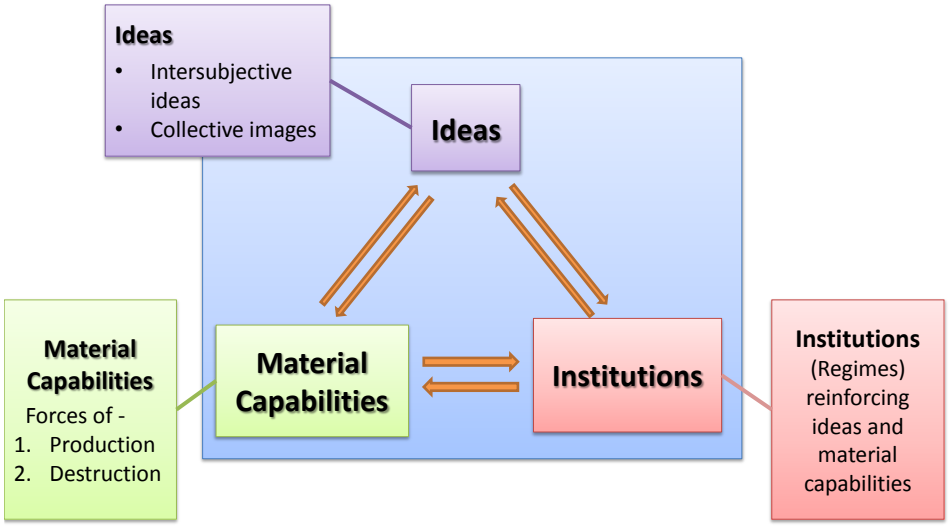

Figure one: Coxian historical structures (Cox, 1986; Gale, 1998).

Cox's (1986: 218) conceptualisation of material power refers to 'productive and destructive potentials'. This is the capacity to produce, or facilitate/control the production of the goods and services that people need, as well as the potential to inhibit or (militarily) destroy this capacity (Gale, 1998: 271).

Ideational factors refer to the dominant normative structures of a particular era. Cox (1986: 218) makes a distinction between two forms of ideas that are relevant to the concept of regimes; intersubjective meanings and collective images. *Intersubjective* meanings are shared understandings about the nature of social and political interactions which perpetuate certain expectations of behaviour. These intersubjective ideas constitute the normative structures that individuals see in their day to day lives as natural and self evident (Gale, 1998: 271).

The second type of ideas that Cox (1986: 218) identifies, *collective images*, refers to the differing images of social order held by different groups. Unlike intersubjective ideas that are defined by their commonly held nature, collective images 'clash over legitimacy of existing power relations, the definition of a public good, and the meaning of social justice' (Gale, 1986: 272). Such clashes are pervasive in international politics; attitudes to humanitarian intervention and liberal trade policies represent pertinent examples in contemporary international relations.

Gale (1998: 270) argues that regimes (which Cox defines as institutions) reflect an embodiment of material capabilities and normative ideas. For Cox (1986: 219), institutions represent a formalisation of ideas and material power that in turn influence developments in ideational and power structures. Institutions, he argues, 'reflect the power relations prevailing at the point of origin and tend, at least initially, to encourage collective images consistent with this set of power relations'. However, Cox (*ibid.*) also argues that 'eventually institutions take on their own life: they can become a battleground of opposing tendencies or rival institutions may reflect different tendencies'. This latter statement alludes to the prospect of regime complexity as described in this article.

Therefore, looking at the formulation of regimes in a more critical-structuralist sense, one could argue that regime complexity is a consequence of two overlapping factors. Either actor preferences are not sufficiently shared to facilitate an integrated comprehensive regime (lack of intersubjective understanding of the major normative premises of an issue area) or those that would implement a regime lack sufficient material capability to be able to either coerce or co-opt other actors into a governance formulation based on their preferences.

However, it should be remembered that in the case of regime complexes, one is not talking about complete discord. Singular regimes operate within regime complexes (with varying degrees of success) and *some degree* of acceptance of interdependence and common problems must be identified for regime complexes to exist in the first place (Keohane & Victor, 2010: 4). Rather it is partial cooperation and partial discord that is in question, suggesting that all actors have reasons for cooperating in the regime complex, but they may not have the same reasons.

Caspian energy regime complexity and the EU external governance sub-complex

Since the end of the Cold War, the Caspian region has emerged as a major new source of hydrocarbon exports and a scene of competition between international actors for influence and access to resources. This section will map out the major contours of the energy regime complex that has emerged in the Caspian region since the end of the USSR. It first draws attention to a number of Russian and Chinese initiatives for energy cooperation (and cooperation that affects the energy sector). Secondly it briefly discusses the energy role the United Nations and finally it presents the sub-complex of EU external energy governance in the region. As will be demonstrated, energy governance in the Caspian corresponds to the 'array of partially overlapping and non-hierarchical institutions governing a particular issue

area' identified by Raustiala and Victor (2004: 279) as characterising a regime complex. As will be shown, energy governance in the region is marked by the existence of several different, partially competing energy cooperation frameworks created and maintained by different configurations of international actors.

Russia and China (and Kazakhstan)

During the last decade, Russia has consistently tried to organise regional energy cooperation in the Caspian region through the Commonwealth of Independent States (CIS) and the Eurasian Economic Community (EurAsEC). Kassenova, (2010: 167, 172) argues that both Russia and Kazakhstan have been keen driving forces behind energy cooperation in the Caspian region, but each for different reasons. Kazakhstan has been keen to establish and embed itself within ambitious frameworks for cooperation that span the entire Eurasian landmass, whilst at the same time seeking to avoid becoming too restricted by any one framework. Doing so maximises the scope for cooperation in line with Kazakhstan's multi-vectored foreign energy policy (Ipec, 2007), but at the same time minimises constraints on Kazakh interests. Russia on the other hand has been keen to maintain control over the Caspian and Central Asian energy supplies and to utilise this control to increase its influence vis-à-vis China, Europe and the USA (Paramonov & Strokov, 2008: 15).

The CIS and EurAsEC have been the forums for a number of energy related initiatives and those of EurAsEC are notably more rhetorically ambitious than the Energy Club of the Shanghai Cooperation Organisation (discussed below). Efforts to establish energy cooperation that were initially conducted within the CIS have gradually shifted to the more recently established EurAsEC, with a framework for energy cooperation agreed at the EurAsEC economic forum in 2003 (Kassenova, 2010: 165-6) and a concept for the formation of a unified energy market agreed in 2008 (Gazeta.kz: 2008). Amongst other objectives, these agreements envisaged the creation of a single energy market across EurAsEC members, a common set of energy policy fundamentals between member states and the objective of an energy 'balance' between member states' levels of demand and supply (EurAsEC, 2005 & 2003). Further areas of economic cooperation such as the Customs Union and the Common Economic Spaces within EurAsEC will have a potentially substantive impact on energy in terms of, for example, reducing taxes on intra-Customs Union oil trade.

Blagov (2011) argues that the Customs Union and the Common Economic Spaces of EurAsEC appear to be a preferred venue for further development of energy cooperation between EurAsEC members. While this is true, Vinokurov (2008: 15, 16) notes however that in terms of energy, the CIS and EurAsEC have subtly varying mandates. The CIS is tasked with the complex and technical work of energy market integration, whereas EurAsEC is mandated with a broader organisational role, helping to ensure the implementation of projects and to coordinate between different energy markets. While efforts towards a unified energy market continue, the level of success witnessed varies between energy sectors, with the field of electricity cooperation demonstrating greater progress than the more strategic oil or gas sectors.

Russia has tried since the early 2000's to foster a gas exporter cooperation alliance between Russia, the Central Asian states and Azerbaijan. These plans have not come to fruition however, partly through Turkmen reluctance and partly through Kazakh and Azeri desires to both bandwagon with and against Russia (Kassenova, 2010: 165). Attempts to develop intra CIS/EurAsEC gas cooperation reflect Russian desires to bolster its position in the so-called gas-OPEC - the Gas Exporting Countries Forum (GCEF) with Iran, Qatar and Algeria. However, failure to develop these gas alliances within the CIS appears to have weakened Russian interest in the GECF. Russian failures to form a gas group under its tutelage inside the CIS or EurAsEC means that cooperation within the GECF risks limiting Russian scope for action, rather than being a body that Russia could control (OSW, 2008).

Another potentially significant platform for energy cooperation between the Central Asian countries, Russia and China (but not Turkmenistan and Azerbaijan) is the Shanghai Cooperation Organisation (SCO). Despite the SCO being driven predominantly from Beijing, it was Vladimir Putin who proposed the creation of an SCO 'Energy Club' at the 2006 SCO summit in Shanghai for the purposes of 'coordinating energy policy and increasing cooperation in the region' (Matusov, 2007: 84). The proposal was endorsed the following year at a SCO summit in Tajikistan (Kassenova, 2010: 164).

As Krans (2009) notes, the Energy Club was established to present a platform for discussion on the organisation of energy in the SCO, joint projects in hydrocarbon exploration, production, processing, transportation and transit as well as the rational use of water-power resources in the region. Putin called specifically for an energy dialogue, integration of national energy concepts, a unified energy market and preferential energy agreements (Scheineson, 2009). The statutes of the Energy Club, as Kassenova (2010: 164) notes, state that the Club is a 'consultative body unifying representatives of state and business circles and also information-analytical, scientific research centres'.

However as Cutler (2011) argues, the organisation has not developed into a strong multilateral framework for energy cooperation. Instead the Energy Club provides an opportunity for state leaders to meet to discuss cooperation issues on a bilateral rather than multilateral basis with no movement towards any real form of multilateralism or supranationalism. Tensions between Russia and China in the region (and between Central Asian states) militate against the prospect of developing a common rules-based system of energy cooperation and ensure continued emphasis on bilateral negotiations (Matusov, 2007: 99). The competing consumer, transit and exporter interests of the countries of the SCO mean that the project is likely to remain a soft forum for dialogue, but one that coordinates dialogue between state and business officials and that fosters bilateral cooperation between interested parties (Kassenova, 2010: 162).

In this sense the Energy Club is an extension of the general methodology behind the SCO that is designed to allow China to further its economic interests in Central Asia without 'getting into unnecessary conflicts with Russia' whilst at the same time providing Russia 'with some transparency in regard to Chinese activities and possibly some veto power' (Matusov, 2007: 99). For the Central Asian states, the Energy Club allows them to foster cooperation with

Russia and China respectively without damaging relations with the other (Kassenova, 2010: 171-2).

It is a point of interest that several of the institutional cooperation mechanisms discussed above facilitate direct contact between energy company officials from the states in question. This contrasts notably with the liberal approach of EU governance that, to date, defines rules by which commercial actors have to operate, but that does not involve them specifically in negotiations or discussions with third party countries. This situation may be changing however. Recent suggestions from the European Commission in this regard include incorporating the European energy industry more directly in energy dialogues with 'strategic partner countries'[5] (EC, 2011: 13).

The United Nations and the EU's external governance sub-complex

The UN, in the form of the UN Economic Commission for Europe (UNECE), is also active in energy policy in the Eurasian region, including the Caspian (UNECE, 2011). The UNECE Sub-committee on Sustainable Energy is mandated to foster international cooperation between the countries of the ECE region (which brings together the countries of Europe and the CIS) in the areas of energy security, energy affordability and energy sustainability (Kubiš, 2011: 3).

The Sub-Committee has a dedicated Energy Security Forum to facilitate cooperation and interaction between UNECE member states, industry and the financial community on matters of energy security in the Eurasian space (UNECE, 2006: 7). This work includes consultations, lesson sharing and the publication of reports on energy security - comprising specific work on the Caspian region's role in mitigating global energy risks (UNECE, 2006: 7).

Rather than having a direct governance role per se, the UNECE facilitates interaction, promotes capacity building and encourages market opening and liberalisation through the standardisation of energy governance on a member state by member state basis. The UNECE however, with its focus on security, affordability and sustainability promotes a vision of energy governance that is broadly comparable with the EU's overarching triad of competitiveness, sustainability and security in energy (EC, 2011: 1). The market-based vision of both organisations is broadly similar in approach to energy governance – the major difference being that the EU attempts to institutionalise and codify governance practices whereas the UNECE offers a more facilitative and epistemic function. In areas such as water and energy management in Central Asia, the two institutions overlap significantly.

The EU itself has neither a single external energy governance policy nor a unitary comprehensive energy governance institutional framework in the Caspian Sea region. Rather, the EU's contribution to the Caspian energy regime complex consists of an overlapping clustered arrangement of structures that can be characterised as a governance sub-complex

[5] The 2011 European Commission communication on Security of Energy Supply and International Cooperation calls for 'systematic industry participation' in the EU energy dialogues with strategic partner countries including through setting up of dedicated business fora (EC, 2011: 13).

within the broader energy regime complex (see figure two). The EU sub-complex makes up the majority of governance initiatives in the region and is the densest in institutional terms (at least in terms of its objectives).

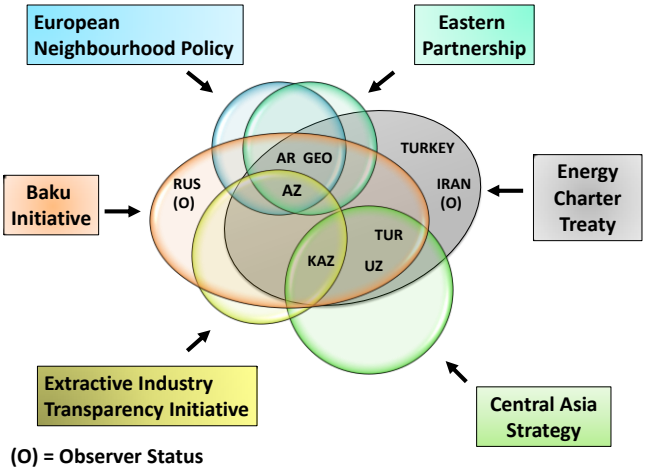

Figure two: The EU external governance sub-complex for Caspian energy (RUS-Russia, AR – Armenia, GEO- Georgia, AZ – Azerbaijan, KAZ –Kazakhstan, TUR –Turkmenistan, UZ – Uzbekistan) Source: own elaboration.

The sectoral frameworks of the Energy Charter Treaty (while not technically speaking an EU governance structure), the Baku Initiative and the Extractive Industry Transparency Initiative (EITI) are promoted within an arrangement of broader macro structures, the European Neighbourhood Policy, the Eastern Partnership and the Central Asia Strategy, that all contain energy provisions and energy cooperation objectives of their own, notably in the form of Partnership and Cooperation Agreements (PCAs), memoranda of understanding on energy and energy dialogues.

Looking at the overlapping, multifarious EU upstream governance policies in institutional terms presents a complicated and inchoate picture of energy policy in the Caspian region. However, viewing these European governance programmes in terms of the normative objectives they pursue provides a more coherent view of the EU's governance efforts in the region. As figure three (see below) highlights, the normative premises on which EU Caspian energy governance is built tend to be quite consistent across the EU's sub-complex.

	Investment Protection	Competition	Transparency	EU Standards Harmonisation	Multilateralism
ENP	yes	yes	yes	yes	yes
EAP	yes	yes	yes	yes	yes
CA Strategy	yes	yes	yes	yes	yes

Energy Charter	yes	yes	no	Partially (by default)	yes
EITI	no	no	yes	no	no
Baku Initiative	yes	yes	yes	yes	yes

Figure three: Consistency of normative preferences in the Caspian energy regime complex.
Source: own elaboration.

While the EU pursues a large number of specific measures in its external energy governance (see EC, 2011), most of these revolve around the promotion of five broad norms; increased competition (creation of a 'level playing field' and non-interference), regulatory convergence on EU standards (safety, environmental and technical), investment protection, increased transparency and multilateralism. These governance norms (while not always fully enacted by actors within the EU itself) broadly represent the externalisation of a number of key liberal preferences in energy that closely approximate to the EU's internal political-economic environment.

The above analysis of the governance structures in place in the Caspian region highlights the conditions of overlapping, interlinked initiatives with varying memberships each addressing a small part of a broader policy space, as described by the concept of regime complexity (Keohane & Victor, 2010: 2). The governance structures discussed here present no form of hierarchy, with the partial exception of the Energy Charter Treaty, with each of the major cooperation structures established and maintained by different configurations of regional powers and Caspian states. Building on this conceptualisation, the following and final section seeks to explain the underlying foundations of this complexity in Caspian energy governance.

Prospects for energy regime complexity in the Caspian region

This section sets out the regional characteristics that explain the energy regime complexity in the Caspian region described in the previous section. Three broad areas are identified, the ideational and material competition of regional powers, Caspian states' own aversion to deep regional cooperation and predilection for regional balancing, and the problem diversity and distribution problems of energy cooperation in the region. Echoing Gale's (1998) understanding of regime formation (described above), this section aims to draw attention to the different material factors and competition over the normative structures (collective images) in the broader Caspian region that help explain the complex institutional manifestation of energy governance in the region.

Firstly, the Caspian region as a geo-political space is characterised by both material and ideational cooperation and contestation between a number of different regional and global actors. These various actors have quite different interests and demonstrate divergent ideational normative preferences relating to international governance, including in energy. This helps to fulfil the criteria of uncertainty as one of the preconditions of regime

complexity noted by Keohane and Victor (2010: 2) and alludes to the questions of contrasting material capacities and collective images over norms as highlighted by Gale (discussed above) (1998).

The Caspian region, strategically important for all of its surrounding powers (most notably the EU, Russia, USA, China, Turkey, Iran, India and Japan), is physically located at the crossroads of their interaction, a factor particularly notable given the ongoing power transition from West to East. In this sense, the wider Caspian region is literally at the centre of a regional and global material power shift.

While the extent and nature of this power transition is debated (Buzan, 2011; Cox & Westad, 2011; Nye, 2011), there is general acceptance in academia that, with the relative rise of China and the relative resurgence of Russia (primarily due to higher oil prices), the international system is moving in a more multi-polar direction (Clarke, 2011; Krastev & Leonard, 2011: 13). This shift, both regional and global in nature has accentuated a divergence of approaches to multilateralism and international cooperation between the major global centres of power. Clarke (2011) notes three reasons for this – all relevant for the Caspian region - 1) at present the EU is weakened economically, diplomatically and militarily (particularly given the current financial crisis); 2) with growing international influence, Russia and China tend to be selective about engagement in global governance favouring bilateral relations to multilateral governance; 3) the relative decline of the United States. This last factor impacts on the EU because long term EU security (and to an extent EU external relations) has often rested on a US-ordered international system, or as Leonard (2011) has termed it 'a European-inspired legal order inside the shell of the US security order' (Krastev & Leonard, 2011: 55-8). Given Europe's closer alignment with American rather than Russian objectives, this relative decline of the US impinges on Europe's attainment of its own goals in its shared neighbourhood with Russia (and China). High oil prices throughout the 2000s for Russia, and China's continuing explosive economic growth have increased the relative material capabilities of these actors in their near abroad, while European and American capacities have stagnated.

In Cox's terms (1986), China and Russia demonstrate different collective images with regard to global governance that have implications for the energy sector. Firstly, unlike the EU which is founded on the principle of shared sovereignty, Russia and China are far more 'souverainist' in their approach to international affairs, perceiving the rules of global governance to be both created in the interests of Western countries and far less important than power relations (Clarke, 2011). The Russian rejection in 2009 of the Energy Charter Treaty can be partially attributed to the perception that the ECT reflected the interests of Western countries rather than Russia (Konoplyanik, 2009: 84). Both Russia and China are strongly committed to non-interference (in both hard power and softer economic areas) and seek to maintain full sovereignty over their affairs (internal and external). Both tend to oppose supranationalism and prefer what Clarke (2011) has referred to as 'concert diplomacy' – cooperation based on intergovernmental interaction rather than the multilateral, legally-based frameworks that the EU seeks to export.

Given each party's considerable interest in the area, these factors have implications for energy governance in the Caspian region, both in form and substance. The EU's overarching

objective of rules-based multilateral energy governance predicated as much as possible on the EU energy *aquis* does not sit well with the Russian and Chinese visions based on ad-hoc intergovernmental negotiation. Of course there are some areas of intersubjective understanding (on safety and technical standards for example), but with energy being of such central strategic and economic importance, it is unsurprising that these different normative premises contrast in the area of energy governance. If, as this article argues, stable institutional regimes are formed on the back of dominant power structures (hegemony) and shared intersubjective ideas (Gale 1998; Cox, 1984), then the overlapping and contested energy structures and absence of comprehensive, integrated regimes seen in the Caspian can be explained in no small part by the disputed and contrasting material and ideational structures in contemporary Eurasia.

Secondly, aside from great power interests, the countries of the region themselves do not contribute to the prospects for a unitary integrated regime in energy. The states of the Caspian region (those in Central Asia in particular) do not demonstrate high levels of desire for regional cooperation that is necessary for an effective comprehensive energy governance regime (Emerson *et al*, 2010: 31). Like their larger regional neighbours, for the hydrocarbon exporting countries of the Caspian region, the question of their sovereignty 'characterises their approach to political power' and 'helps explain their disinclination to cooperate deeply on a regional basis' (Allison, 2008: 186). Allison (2008: 188) argues that for the states of the Central Asia region (and the same is true to a lesser extent for Azerbaijan) the focus on 'national sovereignty and regional standing works against substantive regionalist projects'.

For the countries of the Caspian region, energy policy is very closely related to national security and regime survival. Revenues from petroleum exports play a crucial role in political survival and domestic political consolidation of the state elite. Regime stability across the Caspian region is largely dependent on patronage, both in terms of the networks of influential figures around the president and for the population at large. Revenues from hydrocarbon exploitation provide state elites with resources that can be used to 'buy political support, pay-off opposition and depoliticise the population' (Overland, Kendall-Taylor & Kjaernet, 2010: 4). The producer states of the Caspian region are heavily dependent on the income from oil and gas and the stability of their political systems is based on this dependence (*op. cit.*: 3).

Likewise, energy is also central to the foreign policies of Caspian producer states. In an example of what Kjaernet (2010) has called the 'economicization' of foreign policy, Caspian producer states utilise their hydrocarbon endowment to strengthen their international positions. The Caspian states are located in a geo-politically contested region, surrounded by a number of major and medium-sized powers, and much instability. As such, they are very keen to maximise the foreign policy benefits that can be derived from energy (and other) relationships with these powers without becoming over-dependent on any one of them. For the producing states of the region, energy supplies play a crucial role in the maintenance of their multi-vectored foreign policy as energy is one of the principal points of leverage for Caspian states and a tool these states can use to bandwagon with and balance against the major powers in the region (Overland & Torjesen, 2010; Kjaernet, 2010). Consequently, Caspian governments remain very keen to keep tight control over the energy sectors in their respective economies.

The countries of the region have little economic interest in single market arrangements in energy largely because their relatively narrow ranges of exports compete with each other (oil, gas and hydroelectric power etc) (Bohr, 2004: 498). The high degree of focus on sovereignty witnessed in these states and their unwillingness to risk reducing their political power bases sits uneasily with European aspirations for an ultimately market-based, binding energy regime. This propensity for bilateralism adds to the explanation for the bilateral partnership models of energy cooperation as noted by Padgett (2011: 5) and Van Aartsen (2008).

Regional cooperation structures do however serve a number of purposes for Central Asian leaders. Firstly, Allison (2008; 186) notes how regional structures offer a form of 'protective integration' that in effect takes the shape of an institutional bandwagoning with Russia and China against 'international political processes or agendas that are interpreted as challenging politically incumbent regimes and their leaders'. Participation in international fora also provides the incumbent state leaders with a degree of political legitimacy *vis à vis* their populations that they lack from popular elections.

In effect, the countries of the Caspian region are proficient 'balancers' (Bohr, 2004: 490-2). All of the countries follow 'multi-vector' foreign policies and, as Popescu and Wilson (2011: 5) have noted with regard to Europe's eastern neighbourhood, the countries of the Caspian region are able to use the increasing multi-polarity of the Eurasian space to play 'neo-Titoist' balancing games playing the US, the EU, Russia and China off against each other. States are keen to engage (to a limited extent) with regional structures put in place by all regional powers as they provide an institutional chessboard that allows Caspian states to forum shop between the benefits of cooperation with regional hegemons. When these cooperation structures relate to or have implications for the same issues (such as energy), the probability of conflict within the regime complex increases.

Thirdly and finally, the regime complexity in the Caspian region is also explained in part by problem diversity and distribution problems in energy cooperation. As noted above, one of the defining features of regime complexity is policy issue-areas characterised by 'problem diversity' (Keohane & Victor, 2010: 9). Like climate change (the focus of Keohane and Victor's work) the characteristic of a nexus of overlapping, diverse problem issues is highly applicable in the case of energy[6] (which of course is intimately linked to climate change). Correspondingly, energy has been described by Chester (2009: 1110) as a 'wicked' problem. The denotation of 'wickedness'[7] here relates not to any concept of evil, but rather to the term's mathematical use describing an intractable, multi-faceted, multi-causal problem and to juxtapose this type of problem against more linear, mono-causal problem-issues. EU officials and public communications frequently highlight the multifaceted and overlapping nature of energy problems. The 2011 Communication on Energy Supply and International Cooperation

[6] See footnote two.

[7] 'Wicked', a term from the Public Policy literature, is pronounced here as 'wick't' (/wɪkt/) – referring to the verb 'to wick' as in wicker basket. It is used to denote the interwoven nature of a policy problem. It has no connection to the word wicked (/wɪkɪd/) denoting evil or immoral.

for example highlights in its introduction alone seventeen different (but interrelated) external energy problems[8] (EC, 2011: 2-3).

These wicked characteristics of energy are played out against the tensions inherent to an ongoing paradigm shift in energy (Helm, 2005: 1-3). As Helm has argued, the broad context and shape of energy policy (in the West) has undergone a paradigm shift from a market-centred approach during the 1980s and 90s to a greater focus on two newer (or one old and one new) challenges; security of supply and climate change. The change towards addressing these 'newer' challenges does not entail a rejection of the old paradigm but rather a merge with these additional objectives. These shifts, Helm (2005: 14) notes, can be a 'messy' process involving the carrying over of institutional structures and ideas from previous paradigms into the new one.

EU energy policy in the Caspian region matters to the EU in the context of this new paradigm as it embodies both the pursuit of alternative supply of energy sources to Russia (most notably in gas), increasing both the quantity and the diversification of supplies, and because gas, while by no means carbon neutral, produces far less CO2 than comparable energy sources. However, the EU's approach to governance in the region is still very much influenced by the market paradigm (EC, 2011: 6; Youngs, 2007).

While the market paradigm of energy has never really had much traction in the Caspian region, it is deeply embedded in the EU's approach to energy (Youngs, 2007: 1-6). EU policy is shaped by a combination of security of supply and climate change objectives integrated within a broader market-based approach to energy. EU external energy policy is thus characterised by a mixture of political measures to ensure security of supply (such as bilateral strategic energy dialogues) and a drive to liberalise relations in energy as represented by the Energy Charter Treaty, free trade agreements and the Baku Initiative (EC, 2011: 16). This approach however sits uneasily with the national security demands of Caspian elites amongst whom the impact of the market paradigm is far weaker. As such, pursuing Caspian energy sources for security of supply and climate change motives via an approach that is integrated with the dominant market-based paradigm has the potential to create distribution problems and tensions in energy cooperation in the Caspian region.

Such distribution problems 'arise when states have divergent or asymmetrical interests in cooperation and/or where the benefits are unevenly distributed' (Padgett, 2011: 3). Countries in the Caspian region prefer loose 'partnership' forms of interaction to deeper multilateral cooperation because energy cooperation is blighted by inherent distributional problems (*op. cit.*: 12). Put simply, countries that produce energy are most often concerned with security of demand and maximising rents from energy. Countries that consume it tend to be concerned with security of supply and a difficult balance between supporting commercial companies

[8] These 17 are - non-compliant bilateral relations, network access, upstream safety, lack of competitiveness, the global nature of energy, high imports, growing competition over resources, growing populations, climate systems, environment and human health, fossil fuel subsidies, investment, sustainable energy access, nuclear safety, lack of transparency, market volatility and speaking with a common voice.

(that also aim to capture rent) and minimising rent for upstream countries so that rent can be captured downstream through taxes and lower energy prices.

These differences over rents are also played out against a backdrop of very different political domestic structures in the EU and the states of the Caspian region that impact on the distribution of benefits from energy cooperation and actors' consequent perceptions of legitimate practice. While the EU, a net energy consumer, exhibits a political economy that is broadly (and increasingly) liberal with varying degrees of openness between EU states, the producing states of the Caspian region exhibit traits of post-Soviet rentierism that provide a politico-economic backdrop quite different from the context in the EU (Franke, Gawrich & Alakbarov, 2009; Meissner, 2010). Post-Soviet Rentierism is, as Franke, Gawrich and Alakbarov (2009) argue, a complex mix of the post-Soviet traits of corruption and authoritarianism seen across large parts of the former Soviet Union combined with the characteristics of rentier states in terms of varying degrees of non extractive-sector economic retardation (known as the 'Dutch disease') and consequent political and economic reliance on hydrocarbons. When combined with a souverainist approach to international affairs and a high degree of authoritarianism that is dependent on control of oil and gas, the EU's regionalist and liberalising preferences in energy contrast quite significantly with the basic interests, as currently understood, of the statist Caspian producer countries. As such, different possible cooperation solutions between the two, beyond a certain point, are likely to have potentially different political and economic benefits that accrue at different points in the energy system.

Despite this seemingly inchoate picture it should be noted that strong incentives for cooperation still exist. The countries of the Caspian region are keen to cooperate with outside powers and regional powers are keen to cooperate with them. However this fragmented normative and material power context is conducive to cooperation through fragmented overlapping and sometimes competing regimes rather than integrated comprehensive regimes.

Conclusion

The governance of energy in the Caspian region is characterised by regime complexity. Energy structures within Russian and Chinese inspired regional institutions exist side by side as partially overlapping, partially parallel regimes. The EU, for its part, demonstrates a sub-complex of overlapping and parallel initiatives clustered within overarching frameworks such as the Central Asia Strategy, the European Neighbourhood Policy and the Eastern Partnership. The different Russian, Chinese, UN and European structures exhibit different normative preferences for cooperation. The Russian and Chinese initiatives demonstrate a set of frameworks for cooperation that are broadly intergovernmental in nature based on bilateral political and commercial cooperation. The EU and the UN propose a form of cooperation that is based on harmonisation, multilateralism and adherence to common standards that in turn reflect (to varying degrees) a liberal view of energy governance.

The political and economic conditions of the region provide the explanation for this complexity. In the contested political and normative context of the Caspian Sea region the problem diversity inherent to energy translates quickly into divergent political views of how energy should be managed and how energy cooperation should be conducted. Highlighting distribution problems is important here as it draws attention to how different solutions to diverse energy problems carry different costs and benefits across the system. The region as a whole is fragmented with competition over both the material resources of the region and the ideational structures that suggest how these resources should be managed. As Leonard (2011) notes, the world is becoming increasingly multi-polar both in a material and normative sense, and this is true of the Caspian region generally, as well as in Caspian energy. These conditions provide the countries of the region with the ability to forum shop and maximise their multi-vector policies on the 'institutional chessboard' that is created by this regime complexity.

In addition to the problem-solving policy approach[9] that proposes regime complexes as a solution to the difficult formulation of comprehensive regimes (Keohane, 2011), the notion of regime complexity is also able, particularly when incorporating ideas from critical regime theory, to paint a conceptual picture of the intricate mix of interests, multi-vector balancing and normative preferences that characterise energy governance in the Caspian Sea region. As such, it provides a conceptual framework that helps to explain institutional energy contestation and cooperation in a region of growing strategic energy concern to the European Union.

[9] See Cox (1986).

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