The world of international energy is hard to study. Local customs, terms, and methods are rarely comparable.

And in a world where democratic governments regulate utilities, the reasons why those governments act as they do often enough involve long-forgotten historical controversies. Adding to the problem are deeply embedded misperceptions about whether there are, in fact, international energy markets or international standards for energy regulation. Mostly, there aren’t.

Thus, how does one approach “international energy”? I recommend taking nothing for granted.

INTERNATIONAL ENERGY MARKETS?

Some of the world’s best economists get simple things wrong.

The widely publicized Initiative on Global Markets Forum, sponsored by the Booth School of Business at the University of Chicago, regularly surveys its panel members on public policy matters. When asked in 2012 (and again in 2014) whether new technology in US fracking would make domestic industrial exports more competitive, leading economists at Princeton, Stanford, Berkeley, and Yale said no—given their view that fracking lowered gas prices globally and thus could not possibly aid one nation’s industrial exports over others.1 This conclusion is simply wrong.

New fracking technology and competitive entry in gas markets are strictly American phenomena. Europeans have neither. Europeans pay almost three times what Americans pay for their gas—amounting to a stupefying $500 billion over the past six years.2 Fracking greatly helps US industrial exports by lowering fuel, feedstock, and electricity costs.

But some experts still believe, incorrectly, that what works for crude oil (where Brent indeed reflects world price) works for gas.

INTERNATIONAL REGULATION?

There are many new investor-owned utilities in the world since privatizations began with UK electricity and gas businesses in the 1980s. Each old or newly privatized utility has its regulator somehow setting prices to cover costs. But comparing their methods is perilous.

American regulation reflects, above all, US constitutional protections of property as judged by the Supreme Court, “the first authoritative faculty of political economy in the world’s history,” according to the author of America’s first modern regulatory statute.3 All American regulators act—whether in accounting, administrative process, property valuation, or ratemaking—according to the common-law method of individual cases and precedents, conformable to America’s judicial sovereignty.

This is not the case in Continental Europe, where regulators act according to civil codes based on Roman law, or even in the United Kingdom, whose legislature is superior to its judiciary.4 The famous Hope Supreme Court decision5—the bedrock of property rights for US utility investors—means nothing in Europe. Many international util-

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ity investors, buying into privatized UK utilities, discovered that particular fact to their distress.

Without a working knowledge of such truly dissimilar legal and governmental foundations for regulation and the local histories behind them, economists and regulators in America and Europe (and those countries drawing from either for their own regulatory models) speak different languages.

HISTORIES AND INSTITUTIONS?

Why did almost the whole world outside of North America finance its utilities with public funds until the UK privatizations? Why does such the seemingly straightforward (if not prosaic) business of gas transmission have such radically different industry structures and commercial regimes in North America versus Europe or Australia? Why is genuine transparency such a struggle?

The answers to those questions have little to do with the technology and costs of utilities—electricity is electricity, pipelines are pipelines, gas is gas. What matters are the institutional and regional political endowments that have shaped, and continue to shape, international energy markets.

History and institutions matter.

PUBLIC OR PRIVATE CAPITAL?

Public financing for US inland transport infrastructure died in the 1840s, when New York reneged on its Erie Canal bonds.6 Thereafter, major US infrastructure projects used private funds. And Congress, guided by the Supreme Court, used the following century to invent the institutions needed to square the use of private capital for public services.

Countries with newly privatized utilities have none of this history and few of the institutions that reliably safeguard private investments.

TRANSPARENCY?

It has been over 75 years since the US Congress mandated strict accounting standards, 65 since it specified exacting administrative methods to preserve the constitutionality of regulatory actions, 70 since the Supreme Court defined what regulated private property meant, and over 100 since the Court ruled that the public owns the books and records of private utilities (not the shareholders). All American economists and regulators treat these rulings as the natural foundation for orderly regulation. But they’re wrong—those are not natural but invented institutions, all of which worked to resolve important historical disputes.

The United Kingdom privatized without such institutions, and most of the rest of the world of privatized utilities followed suit.

A STRUCTURAL AND INSTITUTIONAL ANALYSIS OF INTERNATIONAL ENERGY

A column labeled “International Energy” should be sensitive both to international energy market structures and to the institutions that shape how governments and interest groups act. Structural comparisons proceed from the standard neoclassical economic analyses of costs and technologies. Natural monopoly is central to much of the world’s regulation (even though it tends to be oversold by those wishing to regulate—or to be regulated to avoid facing competitors). For example, simple cost structures can show that world spot markets for liquefied natural gas may not be achievable.

But just as important are the institutions: public versus private capital, common law versus the civil code, legislative versus judicial primacy, and whether regulation reflects the deductive application of abstract principles (European-style) versus concrete problem solving involving individual cases and precedent (American-style). To make comparisons between the regulated electricity markets in Northern Ireland and Colombia, or gas markets in Victoria, Australia and Calgary, Alberta—or any comparisons at all—this column will examine both market structures and institutions.

NOTES

1. See http://www.igmchicago.org/igm-economic-experts-panel/poll-results?SurveyID=SV_6nAG1W7VnEm0j5O. One typical response: “At best a short-run and insignificant effect; prices are set in a global marketplace.”