

# INTRODUCTION

The last decade of the 20th century has seen radical changes in government attitudes towards energy policy. These changes have evolved because of a weak market in energy, a growing scientific and public concern over environmental damage, and wider pressures for improved conditions of competitiveness. The Member States of the European Community, with their very different energy supply structures and policies, have responded to these changes in an equally varied way, some focusing on environmental concerns, others racing ahead with market liberalisation, and still others with continuing concerns over security of supply or bringing economic development to certain regions. However, these radical changes have also been the very focus of a growing attention to energy-related issues within the framework of the European Community. Negotiations on electricity liberalisation and a climate change strategy, for example, have required a deeper understanding of the objectives underlying energy policy, and have also provoked some governments to rethink the direction of their energy strategies.

With the 1990s drawing to a close, and the opportunities of the 21st century beckoning, it is a good moment to step back and take a detailed look at the extent of Community activities concerning energy.

The EU's influence over the shape and direction of the energy industries themselves, and over the way other industries and consumers use energy, is escalating rapidly. Even if the Member States continue to refuse the transfer of any significant broad-based energy policy responsibilities to Brussels, the power of the Treaty provisions on environmental and Single Market rules is such that the EU is already controlling the way energy is produced, transformed and consumed. At a national level, however, citizens may never be fully aware quite how much of the policy framework is being fixed at the Community level. This is because of the particular legislative mechanism - the Directive - used by the EU for important rules and regulations. Such Directives, many of which are now agreed by the Council of Ministers in conjunction with the European Parliament, require transposition into national laws. Thus, when new laws are introduced into national parliamentary procedures, they may well be the subject of a public debate without any reference to the EU framework which has already been agreed. The obvious exception to this is where politicians wish to blame Brussels for an unpopular measure. When the measure has some public appeal, of course, politicians are unlikely to pass on the praise to Brussels.

Thus, the rationale behind this report is twofold. Firstly, it aims to provide a comprehensive survey of the many and varied actions undertaken at the Community level with an impact on energy, in one way or another. Not even the European Commission provides such a service. This is partly because the Commission itself is only one of the relevant institutions, and the Council of Ministers, and increasingly the European Parliament, are the actual legislators. But it is also because energy issues are dealt with by so many different parts of the Commission and one Directorate-General (DG) does not always know what another one is up to, and they may even hold very different views on the same subject. It is worth noting that, under President Jacques Santer the divisions within the Commission (and those involving energy policy) appear to be less dramatic than they were under the previous President Jacques Delors, and are fading. But then, this current Commission is a softer giant, intent on compromise, building bridges, and steady progress, rather than on the leaps of vision that were more evident in the early 1990s.

Secondly, this report aims to provide a much-needed commentary on the process of policy-making at the EU level. There is no shortage of analysis and criticism of individual policies and how they will affect relevant parties. One aspect of this is focused through the lobby groups in Brussels, such as Europia, for the oil industry, or Eurelectric, for the electricity industry. At the national level, too, topical issues flare up into publicity when one particular group is adversely affected. But, unlike the unceasing analysis in national media of the way national governments operate, there is almost no analysis and criticism, beyond the very big issues (such as monetary union or enlargement) of the way the EU institutions are conducting their business. Thus, each chapter in this report concludes with a personal assessment of some of the issues covered in the chapter. These assessments are largely aimed at commenting on the process of policy-making, rather than on the policies themselves.

The report can be divided into three sections. A first part looks at the basis of and competences for energy policy at the EU level. The second section, which is the core of the report, looks in detail at

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the four main objectives which underpin the Community's actions affecting the energy sector. Two of these - the Single Market and sustainable development - are very much preoccupations of energy policy in the present day; the two others - security of supply and economic and social cohesion - are of lesser direct importance for energy. In many cases the policies discussed fulfil several objectives and could have been included in one of several different chapters. For clarity each policy has been linked to the objective which provides the strongest impetus in the present day. Thus, some 15 years ago, energy saving actions would have been included in a chapter on security of supply, but in this report they are contained within the chapter on climate change issues. Similarly, the excise tax policies may be contained with the environmental chapters of some future report, but today, despite an environmental element creeping in, the policy is still being driven by the need for harmonisation, and it is, therefore, included in the Single Market chapter. The third part of this report goes on to look at four areas of Community policy which are easier to categorise and digest in themselves than through the lens of the EU's objectives.

Following this introduction, the first chapter, Chapter Two, stands alone in that it sets the Community's competences to deal with energy policy in perspective. It tries to answer the question "What is energy policy at the EU level?" with reference to three eras: an early period when energy policy stemmed from two of the original Treaties dealing with coal and nuclear affairs; a period in the 1970s and 1980s when security of supply dominated energy policy thinking; and the current era in which the security of supply objective has taken second place to Single Market and environmental concerns. The chapter also clearly documents the handicaps faced by the Commission in trying to develop an energy policy framework because of the Member States' failure to accommodate a Community approach to energy in the Treaties.

The EU's Single Market is covered by four separate chapters. The first, Chapter Three, deals with the subject in general as well as the background to the internal energy market. It also goes into some detail on public procurement and taxation, two horizontal issues of importance to the energy sector.

Chapter Three A focuses on the internal electricity market. After a brief resume of the transit Directive, it provides some background to the negotiations for the common rules Directive, details of the legislation and of progress made towards its implementation by the Member States. Over the years, the Commission has made relatively unsuccessful efforts to prise open the EU's markets through competition law and these are also discussed.

Chapter Three B, which looks at the internal gas market, follows the same pattern as the previous chapter, providing background to the negotiations on the gas market Directive, and full details of the new legislation. There have been few significant EU level competition investigations in the gas sector, although recently the Commission has begun to look more carefully at feedstock contracts for power stations.

Other industry-specific actions aimed at developing the Single Market are shepherded together in Chapter Three C. The coal and oil industries could not be more different. Most of the EU's coal industry operates outside the Single Market according to special rules designed to encourage the reduction of subsidies. Both Spain and Germany are finding these rules difficult. The oil industry, which has traditionally been the most liberalised of the energy sectors, has also required some fine tuning in the Single Market - a Directive to ensure non-discriminatory behaviour in the hydrocarbon licensing markets, for example. Moreover, the Commission remains concerned about overcapacity in the refining sector and about the best way to regulate certain competition aspects of the retail sector. Chapter Three C also takes a look at the Commission's actions to curtail illegal subsidies for biofuels.

Three chapters are devoted to the EU's fast-evolving environmental policies. Chapter Four describes the general framework, based on the Fifth Environmental Programme, and the legislative Decision designed to strengthen the Programme's development. The chapter looks at the work of the European Environment Agency, which has begun to provide a more quantitative backbone to the EU's policy-making. Several general issues, applicable to much of industry - such as the Directives on environmental impact assessments and integrated pollution prevention and control - are crucial parameters for the energy industries today and into the 21st century. The chapter also looks at the way the Commission is trying to broaden the responsibility for sustainable development to a wider range of actors.

Chapter Four A looks more specifically at those laws and initiatives directly related to local and regional air pollution and which, therefore, provide either direct or indirect pressure on the use of

fossil fuels. There are important new laws setting a framework for assessing and regulating air quality in the Member States, and detailed parameters for individual pollutants are to follow. The emission-control standards for vehicle engines have been set at the EU level since the 1980s, but a more stringent control on fuel qualities is also now being centralised through joint decisions in Brussels. The important Auto-Oil Programme has led to new standards for vehicle manufacturing and refiners to be in place soon after 2000, with the promise of tighter controls to come. The intra-regional problems of acidification are also covered in this chapter.

The EU's response to climate change is examined in detail in Chapter Three B. The first half looks at the development of a strategy, from the Community's first commitments for the Rio conference, to its more ambitious targets agreed at Kyoto, with reference to the CO<sub>2</sub> monitoring mechanism, and the failed attempts to bring in a CO<sub>2</sub>/energy tax. The second part describes the various instruments of Community policy designed to activate the strategy, in particular through energy efficiency and the development of renewables. The EU's energy efficiency initiatives have been largely conducted through the SAVE programme which is, somewhat confusingly, two things: a series of legislative actions, and a small grant programme to encourage and promote energy saving. EU support for renewables has been funnelled through a similar grant scheme called Altener. Since the mid-1990s and under some pressure from the European Parliament, the Commission has paid more attention to renewables, with a white paper in 1997, and the promise of a legislative proposal on fair access in 1998. This chapter also surveys those Community policies which are beginning to focus on reducing CO<sub>2</sub> emissions from the transport sector.

Chapter Five, one of the shortest in the book, covers security of supply issues from a sectoral point of view. There are old laws on oil crisis measures and stocks which are due for revision. With the expansion and liberalisation of the gas markets, the Commission is looking more closely at potential supply issues, with reference to foreign policy implications; but it is not planning to propose any kind of legislative measures. Meanwhile, liberalisation of markets in general, and of gas and electricity in particular, has provoked major interest in public service obligations. Although ensuring domestic customers can receive regular and uninterrupted supplies is not the only such obligation under scrutiny, it is one of the most important, and the subject is, therefore, covered in this chapter.

The fourth objective which must underpin the direction of energy policy is economic and social cohesion. The Commission itself does not give this objective the same status as competitiveness, sustainable development and security of supply when it comes to energy. However, it is an objective of Community policy, in the same way that sustainable development is, and the achievement of that objective involves energy policy issues. Chapter Six, therefore, covers the Community's use of large resources dedicated to regional policy (through the Structural Funds) with specific reference to those programmes with energy project components (Interreg) and providing support to declining coal industries (Rechar). It also looks in detail at the trans-European networks policy, which has mushroomed through the 1990s, as it applies to gas and electricity projects.

Chapter Seven provides an overview of the Community's responsibilities and activities in the nuclear sector. Parts of this chapter could have been divided up according to the four objectives, but the EC's nuclear responsibilities are bound together tightly through their dependence on the separate Euratom Treaty. The chapter is divided into four parts. The first looks at the policy framework, with reference to the Parliament's call for a revision of the Euratom Treaty, and the Commission's illustrative nuclear programme (a kind of white paper). Part two covers the activities of the Euratom Supply Agency, especially in monitoring the level of fuel imports, and the important international nuclear agreements, the most sensitive elements of which involve trade in nuclear materials. The Euratom safeguards operation is described briefly in the third part, and includes a look at the Community's efforts against smuggling of nuclear materials, and at its involvement in the Moscow science centre and the Korean energy organisation, both of which, in their own ways, are attempts to enhance the safeguards policy. The final section of Chapter Seven surveys the activities of the EU's institutions aimed at developing a nuclear safety culture, especially in the Countries of Central and Eastern Europe (CEEC) and the New Independent States (NIS).

Through their willingness to dedicate approximately Ecu3bn to it every year, the Member States acknowledge that the research and development Framework Programme (FP) is one of the EU's most important instruments. A large share of these monies goes to nuclear and non-nuclear RTD. With specific reference to examples of the projects in the energy programmes (Joule and Thermie), Chapter Eight examines the Third and Fourth FPs of the 1990s, and looks forward to new objectives and themes within the Fifth FP for the 21st century.

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Two final chapters bring together those international issues which could not be contained in earlier parts of the report. Chapter Nine focuses exclusively on the CEEC and the pre-accession strategy which has been developed by the EU to guide these countries towards membership of the EU. The chapter covers both the details of the strategy and the Commission's detailed Opinions concerning each country's ability to take on the Community's energy and environmental legislation.

Chapter Ten takes a geographical approach, looking at each region of the world in turn, and at the energy issues of importance in the EU's relationship with that area. It starts with a detailed look at the technical assistance programme for the NIS, at the Partnership and Cooperation Agreements, and at specific strategies for Russia and Ukraine (although the nuclear aspects of these relationships are dealt with more thoroughly in Chapter Seven). The Energy Charter Treaty, which took most of the 1990s to negotiate, is now in force, and may provide a vital framework of stability for those wishing to invest in NIS energy resources. Energy is expected to play a pivotal role in the developing relationship with the Mediterranean countries, and oil and gas trade are a vital part of the EU's relationship with the Gulf states. The chapter also looks briefly at the energy projects sponsored by the EU in Asia and Latin America. Although energy (outside the environmental conventions) is not a significant topic in the EU's relations with most Western countries, the very important and evolving relationship with the US was wounded temporarily by Washington's attempt to impose restrictions on EU investors in the Libyan and Iranian oil and gas fields.

At the back of the report can be found a comprehensive Glossary of acronyms/abbreviations, and a list of documents/decisions referred to throughout the text. The Document listings are organised according to chapter sections and given in the order they are mentioned (rather than in a chronological order). Only those documents/decisions published as a COM or SEC document by the Commission, or published in the Official Journal L (legislation) or C series are included.

Over the last two years, the EU institutions have taken full advantage of the opportunities offered by the internet for dissemination of information. The European Commission has a vast website (Europa) with each individual Directorate-General running its own separate site. These vary enormously in quality. Some websites, like Cordis and the electricity Directive site, are part of a specific policy for dissemination of information, and dedicated resources help keep them up-to-date. Others are updated on a more ad hoc basis. The Website listings, at the back of the report, give internet addresses for a selected range of 'Home' and 'What's New' or 'New' pages serviced by the EU's institutions as well as a few other useful addresses. All of these were up-to-date as of May 1998.