

INTERNATIONAL AFFAIRS

Chapter Ten

INTRODUCTION

Not only has there been a tremendous growth within the Community of internal policies, such as those for the Single Market or to meet environmental objectives, but the EC has also opened itself increasingly towards the rest of the world. It is a staunch supporter of human rights, free trade and sustainable development; and takes a proactive role, wherever its competences allow, in international fora. Since the EU Treaty came into force, the Member States have had the facility of the Common Foreign and Security Policy (CFSP) for making common statements on foreign policy issues.

Without a doubt, the EC's most important international relations, politically and economically, are those with its neighbours in Central and Eastern Europe. So important are these relations for the future of Europe, that the Community has embarked on its most ambitious enlargement project yet (Chapter Nine). Slightly further afield, relations with the ex-Soviet republics are also considered vital to the future prosperity and stability of Europe. Even prior to the break-up of the Soviet Union, the Community began forging a new relationship with the region, and then, in the early 1990s, it developed the Tacis programme of technical assistance to encourage the process of restructuring and modernisation. Although considerable attention was given to Russia and Ukraine due to their size and geographic location within Europe, the Tacis programme embraced all the New Independent States (NIS) and even Mongolia. The bilateral relationships evolved further with the signing of Partnership and Cooperation Agreements (PCAs), the first of which came into force in 1997.

In terms of energy industry concerns, nuclear safety has been an absolute priority for the EU in its relations with Russia and Ukraine, both through the allocation of the Tacis funds, and at the highest political level (Chapter Seven). In addition, though, reform of the non-nuclear energy sectors has proved one of the core areas for technical assistance in many of the NIS. Indeed, the potential synergies of the energy supply and demand structures across Europe (with Russia having such a dominance in supplies of several fuels, and Western Europe being a heavy importer of such fuels) inspired the Energy Charter initiative. After nearly a decade of talking, a first Treaty is finally in force.

As a counterbalance to the attention being paid to Eastern Europe, the EU began, in the mid-1990s, to shore up its efforts towards the Mediterranean countries. In a pattern similar to that followed with the CEEC, it adopted the Meda programme of assistance and began a process of negotiating and signing a new generation of agreements with individual countries. Again, energy sector developments were considered of particular importance and ministers agreed to set up a special Forum.

A few energy issues of have arisen out of the EU's relationships with the two other developed trading blocs. Nuclear agreements are one important aspect of the relationships with Japan and the US (Chapter Seven) and climate change is another (Chapter Four B). However, the US's determination to try and impose extra-territorial legislation covering EU firms, especially with regard to oil investments in Iran and Libya, created a serious dispute between the two.

The EU has a host of other relationships at different levels with developing countries and regions (and indeed strongly supports the evolution of regional integration organisations), not least those with the African, Caribbean and Pacific countries which benefit from financial support under the Lome Convention. This chapter, though, only looks briefly at three regions - the Gulf Cooperation Council, Asia and Latin America - because energy is the subject of a particular strategy, programme or concern in those regions.

With the exception of the US, DGXVII's international programme Synergy (Chapter Two) has provided financial support for energy policy actions in all the regions covered by this chapter. Under the umbrella of the new Energy Framework Programme, Synergy is expected to continue supporting the EU's energy objectives in the developing countries.

ENCOURAGING REFORM AND MODERNISATION IN THE NIS

Although not on a pathway towards accession, the NIS have profited from considerable political and financial support since the Soviet Union disintegrated. Soon after Phare started, the very similar Tacis programme was launched to provide technical assistance to the NIS. Towards the

Chapter Ten

The Tacis programme of assistance to the NIS

mid-1990s, bilateral PCAs for each of the NIS were negotiated, and interim trade agreements came into force. For the more strategically important countries of Russia and Ukraine, the EU also developed action plans. Energy is of particular concern to the EU in its relationships with several of these countries due, on the one hand, to their large oil and gas resources, and, on the other, because of the highly-charged problem of nuclear safety.

The Tacis programme was launched, with a Council Regulation in 1991, to provide technical assistance with one main objective: the transition to a market economy. The Regulation has been updated twice, once in 1993 when its objective was extended to include reinforcing democracy. In the mid-1990s, Armenia, Azerbaijan, Georgia and Ukraine opted to make energy their Tacis priority, while Kyrgyzstan, Moldova, Mongolia, Russia and Tadjikistan chose to give a secondary priority to energy.

In June 1996, the Council approved a new Tacis Regulation implementing two important changes: the programme was given a supporting role in the context of the PCAs, and the use of 10% of funds was authorised for investment purposes. Tacis now has three main mechanisms for delivering its assistance: the national programmes (which absorb 60% of the funds), the regional programmes, and the facilities programmes. Over the period 1991-96, the EU allocated Ecu2.8bn to the Tacis programme, of which around 9% was for energy, and 17% for nuclear safety. Moreover, for the current cycle (i.e. 1996-99), the EU has said it will commit a total of Ecu2.22bn. These figures make the EU the world's largest provider of technical assistance to the NIS region.

Energy sector projects in the national programmes

For each recipient, the country itself and the Commission have developed a multiannual indicative programme which sets out a general framework for action and an outline of the kind of projects to be undertaken. These and the more specific annual or biannual action programmes are approved by the Tacis committee. In their 1996-99 programmes, most of the NIS have some energy projects under way or planned.

Tacis energy projects in Russia

In the Russian Federation, for example, recent projects have included studies into the restructuring of the urban heating sector (an Ecu2.5m grant), the enabling of a certification centre in Moscow to issue international safety certificates for energy equipment (Ecu2.5m), and improvements in the regulation of the energy sector (Ecu1.5m). In 1996, Ecu5m was allocated for a project to create regional structures to help Russian industry respond to the need for energy efficiency and cope with ecological management laws. In 1997, Ecu13m, out of a total Tacis allocation for Russia of Ecu35.5m, was earmarked for, among other projects, an energy efficiency programme in the steel sector; improvements in housing energy efficiency; heat and power producers in Sormovskaya; and feasibility studies aimed at the extension of the gas distribution network.

Elsewhere in the NIS, grants of Ecu1-2m have been approved to study reform of the energy sector in Azerbaijan, Georgia and Mongolia. Other projects in Azerbaijan have included helping the former monopoly oil company upgrade its standards for energy equipment and support for improvement of consumer services in the gas and electricity industries. In Ukraine, Ecu3m has been provided to set up energy service companies (Escos) to help finance energy saving measures and Ecu34m for the Ukrainian Coal Company to implement a "socially responsible" redundancy policy, by offering training and counselling for employees. In Georgia, Tacis has supported the new oil company and the new ministry for fuel and energy, and in Mongolia, Tacis has backed the development of an energy conservation master plan.

Energy Centres in the NIS

Energy Centres have been among the more visible actions funded by Tacis. Although there has been some overlap with the Thermie Energy Centres (Chapter Eight), they have operated with different priorities. The Tacis Energy Centres have tended to focus on three broad lines of activity - information, training and project-related feasibility work - largely devoted to the promotion of energy saving and the use of renewables. Centres in Minsk (Belarus), Kiev (Ukraine), Tashkent (Uzbekistan), Almaty (Kazakhstan) and St Petersburg, Moscow, Ekaterinburg and Tyumen in the Russian Federation have all been funded by Tacis at one point or another.

The regional facilities programmes

Projects for the regional programmes are selected and chosen annually at a meeting of the NIS coordinating unit representatives chaired by the Commission. The process has, though, become increasingly difficult because of the different interests and political weights of the NIS members. Within the energy sector, nuclear safety is one important regional programme (Chapter Seven), and the Inter-State Oil and Gas to Europe (Inogate) programme is another.

In April 1996, Tacis brought together an expert working group to consider large-scale bankable projects to help with the transport of hydrocarbons from the Caspian and Central Asian regions to Western markets. Following the recommendations of the group and building on previous Tacis-funded studies, the Inogate programme was launched with seven projects and grants of Ecu12m in 1996, with a further Ecu12m allocated in 1997. One of the projects, for example, was a feasibility study into oil and gas pipelines linking Central Asia directly with the Caucasus via the Caspian Sea. The Commission has said Tacis could fund the Inogate programme with up to Ecu50m by the end of the century.

The Inogate project for oil and gas pipeline studies

Tacis also operates through some 20 different 'facilities' which were originally developed to meet a specific type of assistance need or to service a specific target group. The Commission believes these facilities, which are often managed under framework contracts, can meet the demands for assistance more quickly. They include facilities for education, training, and work on standards. The Bistro programme for small-scale projects in Russia and Ukraine is also one of these. In 1996, for example, it financed a conference on demand-side management in Ukraine.

Tacis evolution and evaluation

The basic tools for transferring know-how through Tacis have evolved over time. The original instruments - policy advice, institution building, design of legal/regulatory frameworks, training - have all been extended with new instruments. These include the use of advisory and consultancy teams, development of the legal/regulatory frameworks, and the setting up of partnerships, networks, and twinning pilot projects.

There has, though, been substantial criticism of Tacis over the years, from the European Parliament and from the Court of Auditors (especially in connection with nuclear safety - Chapter Seven). In response, the Commission published, in mid-1997, a detailed evaluation of the programme. It concluded that Tacis was making a relevant contribution to its objectives, although there had been some shortcomings in terms of management efficiency, transparency and an over-emphasis by Commission services and EU institutions on financial and administrative procedures.

Evaluation of Tacis energy projects

A part of the evaluation looked at the contribution made by the programmes to sectoral reform. It stated that most of the countries had addressed the problem of energy efficiency, but that relatively little attention had been paid to renewable energies. Management training in coal mining had proved to be highly useful, it said, but policy work had proved to be of less value. It pointed out that the energy centres faced an uncertain future because of a lack of market demand, and the replacement of their services by government agencies. It also criticised the fact that new centres were started without learning from the experience of earlier ones. Tacis had not always been able to present a clear message to recipients, it concluded, partly because of expectations that large investment funds or equipment would be provided.

Tacis funds for non-nuclear energy (Ecu m)

	91	92	93	94	95	96	Total
Armenia	1.3	-	4.1	-	2.0	-	7.4
Azerbaijan	-	-	-	3.6	2.5	4.8	10.9
Baltic States	3.0	-	-	-	-	-	3.0
Belarus	4.1	1.9	-	-	3.0	-	9.0
Georgia	0.4	-	-	-	2.3	3.5	6.2
Kazakhstan	0.7	3.2	-	-	-	-	3.9
Kyrgyzstan	0.7	-	2.4	-	1.7	-	4.8
Moldova	-	2.0	-	0.6	1.5	-	4.1
Mongolia	-	-	-	1	-	1.7	2.7
Russia	41.5	16.0	21.1	19.5	18.0	11.5	127.6
Tadjikistan	-	-	-	1	0.95	-	1.95
Turkmenistan	-	1.0	-	-	-	-	1.0
Ukraine	6.2	8.08	5.4	15	6.9	6.3	47.88
Uzbekistan	0.4	5.28	-	-	-	4.5	10.18
Regional	6.7	1.5	5.0	3.0	3.5	13.5	33.2
Total	65.0	38.96	38.0	43.7	42.35	45.8	273.81

Source: Tacis 1996 annual report

Chapter Ten

The Partnership and Cooperation Agreements

Tacis will remain an important aspect of the EU's relations with the NIS for many years to come; however, the relationship between each of the individual countries and the EU has developed throughout the 1990s into something more important than that simply of donor and recipient. PCAs were signed with many of the countries between 1994-95, but because of the delays involved in ratification, interim agreements covering the trade aspects, not subject to approval by national parliaments, were also negotiated. Some of these came into force in 1996-97. Early on in the negotiating process, the Council agreed to a more extensive mandate regarding the PCAs with the four European NIS (Russia, Ukraine, Moldova and Belarus).

In general, the PCAs create a framework for political dialogue, set up liberalised trade conditions with Most Favoured Nation status for both sides regarding tariffs and duties, create the conditions for non-discrimination regarding labour, investments, and cross-border services, and set in motion a wide range of sectoral cooperation activities. Trade in coal and nuclear goods are, though, largely excluded from the PCAs and are due to be the subject of separate agreements. All the PCAs include a chapter on cooperation in energy.

First meeting of
EU-Russia
Cooperation
Council

The PCA with Russia (which does in fact refer to the original agreement with the Soviet Union as far as nuclear trade is concerned - Chapter Seven), came into force in December 1997. In January 1998, the PCA's main instrument for dialogue, the Cooperation Council, met for the first time. Apart from agreeing its rules of procedure and a joint statement on foreign policy subjects, the Cooperation Council also agreed on the need to make progress towards a nuclear trade agreement. The Cooperation Committee was expected to call for a sub-committee to examine energy and nuclear matters. The PCA for Ukraine entered into force in March 1998.

Strategic action plans for Russia and Ukraine

At a more strategic level, the EU has developed specific policies for different regions. The Council approved, for example, a rather short Common Position under Article J2 in November 1994 on objectives and priorities concerning Ukraine. Support for democracy, economic stabilisation, disarmament and the closure of Chernobyl were the main items. In 1995, further proposals for a strategy (with a draft Common Position) were put forward with regard to the NIS countries of Transcaucasia and of Central Asia. In each case, energy played a significant role, especially with regard to transit (for export of energy) and because of the specific mention of the Energy Charter. However, neither of the drafts were taken up by the Council.

Using the Ukraine Common Position, though, as a base, the Commission put forward a draft action plan for Ukraine in November 1996. Ukraine's dependence on Russia, not least in the energy field, was highlighted. The country was facing "an energy crisis greater than that experienced by the West in the 1970s, while simultaneously coping with substantial restructuring of its economy", the Commission said. In addition, it pointed to the severe economic and social difficulties directly relating to the energy markets and specifically energy pricing. Nuclear safety problems were also covered in detail.

Six areas of
action for
relationship with
Ukraine

A few weeks later, in December, the Council reiterated its wish to develop a strong political and economic relationship with Ukraine and endorsed the six broad areas for action proposed by the Commission: support for democratic reform and the development of civil society; support for economic reform, development of trade and economic cooperation; reinforcement of political dialogue and support for Ukrainian participation in European security architecture; support for regional cooperation; consolidation of contractual relations, in particular through the PCA; and reform of the energy sector.

The action plan agreed by ministers was not as detailed as the Commission's and listed just three general priorities for reform of the energy sector: "*Assistance with restructuring of the energy sector; continuation of programmes to improve nuclear safety; [and] support and assistance with the implementation of the Memorandum of Understanding negotiated by the G7, providing in particular for the closure of Chernobyl in 2000 and support for programmes to alleviate the social, environmental and medical effects of the Chernobyl disaster.*"

Earlier, in May 1996, the Council had agreed an EU action plan for Russia with several themes: a contribution to democratic reform; economic cooperation; cooperation in justice and home affairs; security in Europe; and foreign policy. Energy/nuclear safety was a prominent topic in the area of economic cooperation and several specific items were listed:

- development of programmes (also in Tacis) for the approximation of laws in the context of the

- Energy Charter, and energy sector reforms for improving the quality and safety of energy supplies;
- assistance on energy price policy, with particular reference to accountancy and management training;
 - further assistance in applying internationally agreed principles on nuclear safety;
 - “willingness to consider providing on-the-spot emergency assistance should Russia so request”;
 - encouragement for Russia to ratify the International Convention on Nuclear Safety and to adhere to the 1993 amendments to the London Convention which ban the dumping of radioactive waste at sea, and to the Vienna Convention on Civil Liability for Nuclear Damage;
 - support for the objective of a high degree of nuclear safety and sound management of pipelines.

Finally, it should be noted that the Synergy programme has undertaken a few activities in the NIS. Earlier in the decade, it provided support for the process of explaining the Energy Charter procedures and responsibilities, and more recently it supported an EU-Russia coal conference and the Central Asia Energy Advisory Group.

THE ENERGY CHARTER TREATY - EXPLOITING EAST-WEST SYNERGIES

Very soon after the break-up of the Communist Bloc, the European Community set in motion a major initiative to take advantage of the potential synergies between East and West Europe in the energy sector. The European Energy Charter began life as an idea at the Dublin summit in 1990. By December 1991, the Charter had been negotiated and signed by 43 countries and the European Community, a total which later rose to 52. Three years later, in December 1994, after intense negotiations, most of the Charter’s signatories signed a legally binding international Treaty with around 50 articles and 14 lengthy annexes.

At the signing ceremony in Lisbon, Charles Rutten, the chairman of the Charter Conference, said that the final Treaty text was based on four pillars:

- promotion of investments in the energy field based on the principle of National Treatment;
- freedom of access to energy markets, with non-GATT members being treated as if they were already members of GATT as far as energy was concerned;
- freedom of transit;
- international arbitration for the settlement of disputes.

*Four pillars of
Charter Treaty*

The biggest stumbling block through the first years of negotiation was over the imposition of National Treatment (i.e. non-discriminatory conditions) for projects in the pre-investment phase. Russia was not willing to sign such a Treaty (chiefly because it was not ready to claim its allowance of exceptions to National Treatment). The problem was finally resolved in autumn 1993 with a decision to complete agreement on a substantial part of the Treaty but leave the pre-investment stage for a second Treaty. By the deadline of June 1995, 50 countries (including the EC and Member States separately) had signed both the Treaty and a protocol on “Energy efficiency and related environmental aspects”.

Only one negotiating country - the US - refused to sign altogether, ostensibly because the Treaty was too weak on investment protection and on repatriation of proceeds. However, the US was also troubled by provisions in the Treaty which, it said, unnecessarily restricted the prerogatives of individual states to enact tax and other measures affecting both foreign and domestic companies. Despite its unwillingness to participate, the US has remained as an observer in the ongoing negotiations.

*The US's refusal
to sign the Energy
Charter Treaty*

The Treaty, as adopted, included substantial derogations for the CEEC and the NIS, with a transitional phase due to end in 2001 (although there was some provision for this to be extended). It also included a commitment on extending National Treatment to the pre-investment phase through the signing of a Supplementary Treaty within three years.

The Treaty finally entered into force on 16 April 1998, 90 days after the 30th ratification instrument (that from Cyprus) was deposited in Lisbon. Many of the NIS and CEEC had ratified the Treaty by the end of 1997, as had the EU and most of its Member States. Turkey, considered a very important country for energy transit, was due to ratify the Treaty during 1998. Although there were some delays in the Duma, Russia, too, was expected to ratify in 1998.

*Treaty in force
from April 1998*

Extension of the Treaty to the pre-investment phase

In order to provide a solid basis for negotiating the Supplementary Treaty, the Brussels-based Charter Secretariat, which was brought into being by the Treaty, carried out, during 1996 and 1997,

**INTERNATIONAL
AFFAIRS**

Chapter Ten

a detailed review of the laws in each signatory country relating to exceptions to National Treatment and to privatisation. A meeting of the Energy Charter Conference, also brought into being by the first Treaty, reached substantial agreement on the Supplementary Treaty in December 1997.

The text of the new Treaty is only a few pages long and simply amends the existing Treaty. However, as with the main Treaty, it was the annexes, which list exceptions country by country, which were the focus of negotiations. Exceptions linked to privatisation, for example, were among the most difficult obstacles to overcome: several countries, including Russia, had insisted on exceptions for resales after privatisation. A breakthrough came at the December meeting when Russia dropped this requirement; thus, no exceptions will be allowed for any further ownership changes after privatisation.

Supplementary Treaty due to be signed in September 1998

In April 1998, the Charter Conference agreed an extension of the Treaty's trade arrangements to include energy-related equipment, and rules for conciliation in transit disputes. The Supplementary Treaty was due to be finalised at a meeting in June 1998 and signed in September. A nuclear safety protocol, meanwhile which, like the energy efficiency protocol, had been negotiated in parallel with the first Treaty, suffered from a severe difference in views. Some signatories, especially Russia, wanted it to be legally binding, but others, such as the EU, argued this would detract from the IAEA Nuclear Safety Convention. With neither group willing to give way, the protocol remained in limbo.

THE EURO-MED PARTNERSHIP - A NEW IMPETUS FOR SOUTHERN NEIGHBOURS

The Community's relations with the Mediterranean countries began to develop in the 1960s, with trade agreements, and were extended in the 1970s with economic and financial cooperation. Further strengthening followed as a result of the accession of Greece, Spain and Portugal in the 1980s. In December 1990, the Council adopted a "New Mediterranean Policy" designed to make relations more dynamic and to encourage the process of opening up and reform. Then, during the mid-1990s, the EU began to focus more attention on its southern Mediterranean neighbours, partly to balance the attention paid to Eastern Europe since 1990.

Areas of Euro-Mediterranean interdependence

In October 1994, the Commission put forward a substantial Communication laying the grounds for establishing a Euro-Mediterranean Partnership. It said there were many areas of Euro-Mediterranean interdependence, notably environment, energy, migration, trade and investment. The Community had a vital interest in helping its Mediterranean neighbours meet the challenges they faced, the Commission added, because of the risk of economic disintegration and socio-economic destabilisation. It proposed a long-term strategy, with three main components, to support both political and economic reform in the region: free trade, financial assistance and cooperation.

Furthermore, the Commission said, there was a need to integrate the Mediterranean countries into a wider pan-European market and, in line with that process, to streamline their regulatory and economic policy framework, raise their long-term competitiveness, help them attract substantially more private investment, and accelerate their sustainable development. The December 1994 Essen summit approved this approach and the Cannes summit in mid-1995 reinforced the EU's commitment to the region with the promise of Ecu4.685bn in financial aid between 1995 and 1999.

Meda and the Euro-Med Agreements

In order to provide a more comprehensive framework for this aid, the Commission proposed a Regulation - partly modelled on the Phare programme - to replace the existing financial protocols. The so-called Meda Regulation - aimed at the Maghreb countries as well as the Middle East, Cyprus, Turkey and Malta - was adopted by the Council in July and came into force in August 1996. The Regulation foresaw a three-stage programming procedure: a set of general guidelines to be approved in the Council by qualified majority, with the indicative programmes and the financing proposals to be adopted by the Commission on the basis of the opinions of a management committee. The Commission put forward a draft Council Decision setting out guidelines for the first stage and it was approved by the Council in December 1996.

In mid-1995, the Commission brought forward a new generation of draft agreements - the Euro-Mediterranean Agreements - to frame the evolving bilateral relations with individual countries. The first of these agreements were signed with Tunisia (in 1995), Israel (early 1996), Morocco (March 1996), and Egypt, Jordan and Lebanon (in 1997). The Madrid summit also stated that the EU was ready to negotiate with Syria and Algeria.

Cyprus, Malta and Turkey have, however, a more individual relationship with the EU. All three have applied for EU membership, although Malta suspended its application in 1996. Negotiations with Cyprus are under way alongside those with the CEEC, but they are somewhat complicated by the divided nature of the country. Turkey, too, has been told its application will be considered in line with other accession requests, but there are significant political problems. When the Luxembourg European Council said, in December 1997, that political and economic conditions allowing accession negotiations to be envisaged “are not satisfied”, Turkey felt snubbed and declined to attend the European Conference in London the following March. Council Association Agreements with all three countries frame the existing relationship, but no energy issues stand out.

At a meeting on 27-28 November 1995, foreign ministers from the 15 Member States and from the 12 Mediterranean countries signed the important Barcelona Declaration. The key aspect of the Declaration was the formation of a Euro-Mediterranean Partnership, to be implemented through three areas: a strengthened political dialogue, economic and financial cooperation, and a greater emphasis on the social, cultural and human dimension. The second area, economic and financial cooperation, was to be developed through the progressive establishment of a free trade area, the implementation of appropriate economic cooperation and concerted action in the relevant areas, including energy. Indeed, energy was considered to have “a pivotal role” in that partnership.

The Barcelona Declaration

The energy sector to play a pivotal role

The section on energy in the work programme annexed to the Declaration stated: “*With a view to creating the appropriate conditions for investment in and activities by energy companies, future cooperation will focus, inter alia, on: fostering the association of Mediterranean countries with the Treaty on the European Energy Charter; energy planning; encouraging the producer-consumer dialogue; oil and gas exploration, refining, transportation, distribution, and regional and trans-regional trade; coal production and handling; generation and transmission of power and interconnection and development of networks; energy efficiency; new and renewable sources of energy; energy-related environmental issues; development of joint research programmes; training and information activities in the energy sector.*”

Because energy is considered a vital factor for the EU in its evolving relationship with the Mediterranean countries, DGXVII has been actively involved in ensuring that energy retains a significant profile within the new instruments for cooperation while at the same time using its own programmes to promote the relationship. At a high-level conference held in Tunis during March 1995, Papoutsis said the Mediterranean region was extremely important to the EU’s energy sector as it accounted for one third of gas imports and more than a quarter of oil imports.

In April 1996, the Commission adopted a specific Communication on Euro-Med cooperation in energy complete with a proposed three-part action programme. The first part simply defined the areas of cooperation, such as energy policy aspects, networks and industry/RTD. The second part covered security of investments and outlined the advantages of the Mediterranean countries joining the European Energy Charter. It also suggested a study on the options available to facilitate investment in the region. The third part discussed mechanisms for cooperation, such as the Meda, RTD and Synergy programmes, and proposed the establishment of a Euro-Mediterranean Energy Forum

Communication on Euro-Med cooperation in energy

The Commission noted that the Forum must be set up in such a way as to allow actors from outside the Forum - trade unions and financial institutions for example - to voice their views. It stressed the need for the Forum to add a regional cooperation dimension to project development “by introducing a Euro-Mediterranean interest label for projects contributing to this cooperation”. The Forum could award this label, which would allow easier access to Community funding, on the basis of projects submitted jointly by at least two countries and other criteria yet to be established.

The tasks of the Euro-Mediterranean Energy Forum

The European Commission envisaged, moreover, that the Euro-Mediterranean Forum would help shape the broad lines of action for the Meda programme’s energy actions. The Commission said: “*Without calling into question the bilateral nature of a large part of Meda, such an integrated approach would create the synergies needed between the various bilateral types of cooperation. In this way, Meda will develop energy measures going beyond simply attaining the energy policy objectives . . . and also contribute to other more general objectives such as environmental protection, political stability, social integration, peace and prosperity.*”

The Council of energy ministers, meeting in May 1996, approved short Conclusions on the subject with pointers for a forthcoming ministerial Euro-Mediterranean conference in Trieste. That

Chapter Ten

meeting, which was described by Papoutsis as the first practical and concrete step of Euro-Med cooperation in energy, endorsed the idea of the Forum and agreed on a range of points:

- the use of the Energy Charter Treaty as a reference instrument for promoting investments and trade;
- the need to harmonise legal and contractual rules to favour investments by foreign companies;
- the importance of Euro-Mediterranean gas and electricity networks to economic and social development and security of supply;
- the importance of environmental issues and energy efficiency;

First meeting of Euro-Med Forum

A first meeting of the Euro-Med Forum was held in May 1997 with representatives from the twelve Mediterranean partners, the European Commission (which holds the secretariat for the Forum), the Dutch Presidency of the Council, and, as observers, the European Investment Bank and those Member States of the EU which wished to participate. The Forum proposed the following actions:

- the organisation of discussions to gain a better understanding of the situation of the Mediterranean partners and of their needs, by involving industry and the international banks and donors;
- the adoption of a database based on the contributions of all partners (including industry and banks);
- the organisation of a communication network accessible via the internet;
- the definition of a medium-term action plan, based around energy policy, infrastructures and networks, and industrial cooperation and RTD.

EU and Med ministers agree action plan for Forum

A year later, in May 1998, EU and Mediterranean energy ministers agreed an action plan for the Forum divided into two main areas: actions to be undertaken at the political and administrative level; and actions directed at industry. In the first area, the plan included among other projects:

- studies on the existing structures of the EU and the Mediterranean partners;
- a study on current energy legislation in both EU and Mediterranean regions;
- the formation of an economic analysis ad hoc group;
- an inventory of overall energy distribution patterns to consumers;
- closer international cooperation with regional and international organisations;
- the continuation of a study on investments;
- the consideration of the association or accession to the Energy Charter Treaty;
- the setting up of an interconnection ad hoc group to look at gas, electricity and oil networks, to lead to the selection of projects with the “action of regional interest” label;
- an analysis of the environmental situation connected with energy use in the Mediterranean area;
- the development of a regional strategy to promote renewables, especially in remote areas;
- the development of a regional strategy to encourage energy efficiency combined with the setting up or reinforcement of national agencies for energy management;
- the setting up or reinforcement of agencies in charge of energy management at regional, city level;
- the exchange of information on, and promotion of, environmentally friendly technologies.

Synergy programme projects in the Med region

The Synergy programme has played an important catalytic role in the Mediterranean region. Several meetings in the mid-1990s, in Tunis, Cairo, and Athens for example, brought together many of the participants and prepared the ground for the “pivotal role” won by energy in the Barcelona Declaration. It also supported a two-day meeting in November 1996 to introduce the Mediterranean partners to the Energy Charter and undertook a study on energy investments in the region. Further East, Synergy was instrumental in helping start the Palestine Energy Centre and in supporting the Energy 96 conference in Haifa during May 1996. Synergy has also provided finance to help start the Black Sea Energy Centre and the Balkan Task Force.

US RELATIONS - PROCUREMENT, ENVIRONMENT AND INVESTMENT ISSUES

With the success of its Single Market, environmental, and other policies, the EU’s presence in the international arena escalated during the 1990s, so much so that it found the relationship with its major trading competitor increasingly complex and politically sensitive. Energy as such does not play an important part in the overall relationship, although a number of issues arising from the energy industries have proved themselves crucial.

A significant step was taken in 1994 when the EU and the US signed up to a more liberal procurement regime for state agencies, including the purchase of power generation equipment (Chapter Three). A serious rift between the two was narrowly averted over a new nuclear agreement (Chapter Seven). As described above, the US failed to support the European initiative for an international Energy Charter Treaty.

In December 1995, the EU and the US signalled a new phase in their overall relations with the signing of the New Transatlantic Agenda. This set out four major goals: promoting peace and

stability, democracy and development around the world; responding to global challenges; contributing to the expansion of world trade and closer economic relations; and building bridges across the Atlantic.

The 'global challenges' goal covered a number of themes including preservation of the environment, which itself ranged across several subjects, such as more coordination of negotiating positions on major global issues and "a broad and substantive dialogue on ways and means to limit and reduce global emissions of greenhouse gases, including CO₂". This did not, however, lead to any agreement on the climate change strategy prior to the Kyoto conference in late 1997 (Chapter Four B). The two sides also said they would improve existing bilateral assistance coordination in the field of nuclear safety, extending it to on-site and off-site nuclear emergency preparedness (including in the CEEC and the NIS), as well as special G7 Chernobyl assistance (Chapter Seven).

Furthermore, under another part of the agreement, the EU and US said they would intensify contacts and cooperation on energy-related issues such as the environmental implications of energy policy, regulatory frameworks for the energy sector, technical assistance activities to third countries and energy technology.

EU reaction to the d'Amato act

Between 1996 and 1998, though, one issue - the imposition of extra-territorial legislation - blew up into a major dispute between the two trading blocs. In 1996, the US brought into force the Helms-Burton and d'Amato acts. The former, the more widely quoted, was aimed at stopping investment in Cuba, but the latter, which set up a mechanism allowing the President to apply sanctions against any company investing over \$20m in the oil industries of Iran or Libya, was considered the most potentially damaging for the EU.

The EU's foreign affairs ministers adopted a set of retaliatory measures in autumn the same year, which, they said, should provide protection, notably by:

- prohibiting the recognition or enforcement of judgements or administrative decisions on the contested US legislation;
- providing a right for companies to recover any amount of damages awarded against them by such judgements or decisions;
- establishing a system whereby the competent authorities within the EU are appropriately informed;
- prohibiting compliance with the legislation, where appropriate.

The EU subsequently began a legal action against the Helms-Burton law in the World Trade Organisation (WTO). Negotiations then led to a temporary solution in April 1997, including the suspension of the WTO action.

In September the same year, by which time no real solution had yet emerged, the French oil company Total announced a \$2bn contract with Gazprom and Petronas for developing a major Iranian gas field. Under the terms of the D'Amato act, the US President had several options: to impose sanctions against Total (although, by divesting some US operations, the French company had clearly made provision for such an outcome); to waive the sanctions - but, to do this, he would need to convince Congress that action was being taken by the EU in line with the Act; or to open a dialogue with the French government, as allowed under the Act for 90 days (with a possible further 90 day extension period), to ask for justification of the contract. The US took the latter course.

Total's investment project in Iran

Reaction in the EU to the Total contract was consistent: the French prime minister Lionel Jospin, the Total chairman, Thierry Desmarest, and the External Affairs Commissioner, Leon Brittan, all said the contract was a straightforward commercial decision and had nothing to do with the US. More specifically Brittan said: *"The EU remains firmly opposed to US legislation having extraterritorial effect - notably the Helms-Burton and D'Amato acts. Such legislation is contrary to international law. It is also counter-productive in political terms since it creates tension between Europe and the US which makes it more difficult to work together to achieve shared political objectives in Iran. It plays into the hands of hardliners in Tehran. That is why we continue to believe that a negotiated settlement of the issues between us in accordance with the terms of the Understanding of last April remains the right route to pursue. I therefore hope the US administration will reflect long and hard about the wisdom of taking any action against Total under the D'Amato act."*

Resolution to conflict over d'Amato act

In early 1998, the EU decided to let its action in the WTO fall when the one year suspension limit expired. However, it stressed it would start a new action if the US used the d'Amato act against Total. In May, though, the two sides reached an understanding, whereby the US would not impose sanctions on EU companies and the EU would take a tougher line on exports to Iran and Libya.

Chapter Ten

GULF COOPERATION COUNCIL - OIL AND GAS MARKET CONCERNS

Energy has played a more political role in the relationship with the Gulf Cooperation Council (GCC), whose members supply a sizeable share of the Community's oil, than it has with other regions of the world. Under the auspices of a Cooperation Agreement, in force since 1990, the EU and the GCC meet regularly. For much of the 1990s, the two sides have been trying to find mechanisms for developing a free trade agreement but without much success. According to the Commission, EU-GCC economic interests are based on energy interdependence, and a free trade agreement would provide a long-term framework to encourage more EU-GCC cross-investments, vertical integration and industrial alliances.

*GCC difficulties
with CO₂/energy
tax proposal*

During the early 1990s, the Commission's climate change strategy, and the CO₂/energy tax proposal in particular, were strongly opposed by the GCC because, it said, the demand for oil would be affected. A joint energy and environment working group was set up, partly in response to these concerns. It produced a joint communique in 1994 in which both sides agreed that, by 2010, the EU was forecast to double its gas imports and to increase oil imports by 20%. They also agreed that, because of environmental concerns, there might be a need for fiscal instruments.

Although the energy and environment working group stalled in 1996, a dialogue was continued through occasional conferences. In late 1996, for example, DGXVII's Synergy programme cosponsored a meeting in Qatar on natural gas. Both sides agreed to explore ways of realising the potential for natural gas trade and the possibility of including gas as a crucial element within the overall EU-GCC relationship. A further conference, this time cosponsored by DGXVII's Thermie programme, was held during the latter part of 1997 in Bahrain on gas and oil technologies.

*Study on natural
gas exports
from GCC to EU*

The seventh EU-GCC Joint Council, meeting in February 1997, agreed to aim for completion of the free trade agreement in 1998. However, the illness and subsequent death of the GCC's chief negotiator held up negotiations for more than half a year. (The eighth Council is scheduled to meet in November 1998.) On the energy side, the seventh Council agreed to continue the energy-environment dialogue and it took note of an EU initiative aimed at identifying cooperation needs in the area of port reception facilities. It also endorsed the recommendation of the Qatar conference to make natural gas a standing item of the energy working group, and it approved the launch of a joint Commission-GCC study on various issues concerning prospects for future EU natural gas imports from the Gulf. Subsequently, DGXVII put forward draft terms of reference for the study but, as of early 1998, the GCC had not yet responded.

ENERGY COOPERATION STRATEGIES FOR ASIA AND LATIN AMERICA

The energy situation in Asia and the potential for EU policies has been the focus of the Commission's attention more than any other region of the world outside Europe. Asia has always been a focus of DGXVII's international programme and of a separate grant scheme operated by DGI. In mid-1996, the Commission, led by DGI, issued a Communication entitled "Europe-Asia cooperation strategy for energy" in which it said that Asia was so important, in terms of energy use and environmental concerns, that the EU needed to focus better its dialogue and aid programmes with Asian partners and mobilise more private investment.

The paper identified three main objectives, mirroring the EU's own policy aims, for defining energy cooperation with Asia: to strengthen the security of supply in Asia and in Europe; to participate in Asian energy markets; and to protect the global environment. The EC was different from other donors to the region, the Commission said, because the use of grants (as opposed to loans) offered a unique advantage towards Asian countries who often hesitated to use loan-financing for feasibility studies, R&D or technical assistance: "*The Community can therefore act as a catalyst to encourage the best skills in Europe to meet the expectations of its partners while facilitating the activities of the Member States and their operators in Asia.*"

The Commission suggested that cooperation should include a number of aspects. Firstly, there should be an ongoing dialogue about energy policy, in bilateral and multilateral fora. Secondly, it said, the mobilising of the Asian and European private sector would be "absolutely necessary" because of the major capital requirements and because of the need to find a more efficient way of running the sector; and, thirdly, cooperation must aim to achieve an equilibrium between environmental, social and economic development and take account of the needs of poor urban and rural populations.

Priority areas for energy cooperation in Asia

Chapter Ten

Five priority energy areas were earmarked, by the Commission, for Community assistance to Asia. The electricity sector, which represents almost 80% of all energy investments in Asia and amounts to Ecu40bn/yr, is undergoing major technical, financial and institutional changes and provides “tremendous scope” for EC cooperation, the Commission said. The natural gas sector will become increasingly important with an average annual growth rate of 10% predicted by the Asian Development Bank, it noted, and very significant developments are expected to take place in China, India, Bangladesh, Indonesia and the Philippines. Moreover, coal is used on a massive scale and its growth in power generation will only increase with important environmental consequences, it added. Rational use of energy actions and support for the development of renewables in rural areas made up the other two priority areas.

The Council, which at the time was involved in negotiating a new Synergy programme Regulation (Chapter Two) made no formal response. The European Parliament, though, passed a somewhat critical Resolution in May 1997. Although welcoming the Commission’s intention to establish a dialogue on energy policy with the countries of Asia, the Parliament complained about the “inadequate analysis and strategy for the current energy situation in the countries of Asia”. The EP also wanted the Commission to dissociate itself from the hydro power project at Bakun in Malaysia, not to support any other large-scale hydro power projects and to prioritise small-scale schemes. Similarly, the EP stressed that “the EU must not take part in any way in nuclear energy cooperation projects with Asia similar to that currently in progress with KEDO”.

Parliament concerned about inadequate analysis

Among the larger ongoing projects, funded by DGI, is a joint Management Training and Research Centre in Jakarta with Asean (Association of Southeast Asian Nations). In 1999, this will change its name to the Asean Energy Centre and will be placed under the auspices of the Asean energy ministers. Its mission will be to accelerate the integration of energy strategies within Asean. A long-term biomass cogeneration programme, based in Bangkok, will be a given new lease of life with Ecu25m from the EU for a five year programme, but one directed at all types of cogeneration not just from biomass. Other specific DGI funded projects have included demonstration of a wind-diesel power plant in China, electrification of remote villages in Pakistan, and support to local entrepreneurs in the Philippines (through soft loans) working in the management and commercialisation of energy systems.

The Asean Energy Centre

The Synergy programme, meanwhile, has profited from the high-profile involvement of the Energy Commissioner Christos Papoutsis. In October 1996, he made an official visit to China and participated in the EU-China Energy Cooperation Conference aimed at the promotion of business cooperation in the energy sector. He also signed, with Prof. Xu Guanhua, vice-chairman of China’s State Science and Technology Commission, a joint declaration on energy cooperation. It called for the strengthening of Sino-European policy and institutional exchanges in the energy sector, joint research and technological cooperation between universities, research institutes, industrial companies and energy service organisations from both parties. Both sides agreed to continue joint training courses with an emphasis on energy efficiency and clean coal combustion and supported the formation of a working group on energy within the EU-China Joint Committee.

Synergy programme operations in China

Synergy projects in other areas have included the India-EC Energy Bus. This programme, with its roving buses providing advice and training in energy auditing and efficiency techniques, has been supported by the Indian government and DGXVII for nearly 10 years. Synergy has also helped fund technical visits to Europe by senior energy officials of the Asean countries. Then, in June/July, Papoutsis led a high-level delegation of the EU’s energy industries to three of the members of Asean - Thailand, Vietnam and Philippines. A number of Synergy activities in Asean countries are undertaken in cooperation with the DGI supported Asean Energy Centre.

The Alure programme for energy projects in Latin America

In Latin America, aid for the energy sector has traditionally been based on a two-pronged approach: helping with the transfer of technology and know-how, and help with institution building. In October 1995, though, the Commission analysed the general prospects for a closer partnership with Latin America between 1996 and 2000 and concluded that energy and environmental concerns should be the subject of more innovative and flexible cooperation with better targeting of actions. Subsequently, DGI moved from funding a larger number of small projects asked for by the recipients, to focusing on bigger projects driven by calls for tender in Europe.

A two year horizontal regional programme (Alure) was set up in 1995 to assist institutions and companies (public, mixed and private) involved with energy production, distribution and consumption to optimise the utilisation of energy resources. Some 13 projects, with an average EU

Chapter Ten

contribution of about Ecu0.5m each, were under way in early 1998. These included a study on the effective management of electricity distribution in Mexico, a rational use of energy marketing study in Columbia, and a study on natural gas development in Brazil. In December 1997, the Council agreed to fund a new five year stage of Alure with Ecu25m. DGI has set up an Alure support team to administer the programme and streamlined the way the tendering process operates.

Although the Alure programme is expected to absorb the bulk of DGI's energy grants in the future, there are still several other important ongoing projects. Following a phase one World Bank study into reforming the electricity sector in Brazil, the Commission is contributing Ecu2.5m to a phase two study. In Central America, the Pier 3 programme is looking at demand-side management in Panama, Honduras and Guatemala. The Commission is also providing Ecu7m for a four year project in Nicaragua to help with supply security. Perhaps the most politically sensitive project, though, is the Ecu7m programme in Ecuador designed to improve the environmental management in oil exploration areas.

Synergy backing for regional integration projects

One of the most high-profile Synergy events in Latin America in recent years was a conference held in Caracas, during June 1996. Attended by Papoutsis, it was entitled "Energy: the link between the countries of Latin America and the EU in a changing world". Priorities for cooperation agreed by the conference have since set the guidelines for Synergy operations in the region. These include regional integration, deregulation, promotion of investments and trade, energy technology, and statistical information. Other activities of Synergy in Latin America have ranged from cooperation with the Southern Cone Common Market organisation (Mercosur) on the integration of the energy sector and on an energy efficiency/renewables seminar, to supporting the efforts of the Latin American Organisation of Energy (Olade) to maintain the Energy-Economic Information System of energy statistics.

ASSESSMENT

Because of the recalcitrance of the Member States to give away sovereignty over foreign affairs, the EC's competences in international relations have traditionally been limited to a modest role in international organisations and the influence it can bring to bear through its bilateral arrangements with a large number of countries and regional organisations. The 1990s, though, saw the Community's influence in international affairs rise and rise, and rise. Much of this growing influence has little to do with Community energy policy. Nevertheless, energy remains such a vital commodity for all sorts of reasons - in developing and developed countries - that the Union must maintain a strong interest in propagating both its energy policy ideas and its energy technologies.

Four general levels in which the EU operates internationally

It is possible to identify four general levels at which the Community operates in the international arena. The first of these is the enlargement process by which the EU exerts a truly tremendous power over those countries drawn into the accession process (Chapter Nine). The second level is that of the Common Foreign and Security Policy, brought into play by the Maastricht Treaty. The Common Foreign Policy concerns energy very rarely, although nuclear safety was part of a Common Position on Ukraine; but quite a number of nuclear issues are covered under the Common Security Policy, such as the EU's involvement in KEDO, and initiatives aimed at international nuclear security.

Thirdly, and of some real significance for the energy industries, the EU has stepped up its activities within international agreements - mostly through a process whereby the Commission pushes for increased competences, while the Council is forever trying to restrain it. This is evident, for example, over the Commission's as yet unrequited aims for the EU's membership of the International Energy Agency (Chapter Five), and, more importantly, over its partially requited aims for a strong climate change policy within the UN arena (Chapter Four B). The Commission is also constantly straining at its leash within other international conventions, such as those on maritime and transboundary pollution (oil platform decommissioning strategies and acidification respectively - Chapters Four and Four A). It should not be forgotten, also, that the EU won significant concessions in the US procurement market because of the way it framed its Single Market legislation for the excluded sectors (Chapter Three).

Of potentially the greatest direct impact on both the prosperity of European energy companies, and the security of Europe's energy supply, though, is the international treaty that evolved out of the Community's own initiative - the Energy Charter Treaty. It has been an immensely complicated process, taking most of the 1990s, to draw up a legally binding agreement that virtually all the European countries, and others besides (although not unfortunately the US), were prepared to sign

and ratify. The EU should be congratulated on persevering with this initiative. Several key stages have been passed, notably the ratification by the EU and most of its Member States, and the 30 state ratification threshold which triggered the Treaty enforcement date in April 1998.

Further stages, though, are necessary. Ratification by Russia is considered an absolute priority, since so much of the Treaty is aimed at encouraging investment in the energy resources of that country. Secondly, the Charter signatories need to finalise and ratify agreement on a Supplementary Treaty to ensure fair treatment for companies at the pre-investment stage. Both the Energy Charter Treaty and the draft Supplementary Treaty have long lists of national exceptions and transition periods, so that, even after years of progress, it is still too early to pass judgement on how useful the Charter will prove itself.

*Too early to tell
how useful the
Charter Treaty
might be*

The EU has made an enormous effort towards revitalising the NIS, with the provision of billions of Ecu through the sometimes operationally flawed Tacis programme. The grants, which are used to mobilise expertise, whether through training programmes, policy advice, seminars, twinning events, or consultancy studies, are useful but they are just a tiny drop in an ocean of need. The PCAs will provide political and further practical support, but from whichever angle the difficulties of restructuring and modernisation are looked at, it will take a long time for Russia and Ukraine, for example, to shake off the Communist legacy.

It may be just as well that the EU has no needy neighbours to the north or west. It will have more than enough on its plate, so to speak, in the next few years to the east, with the CEEC accession negotiations, the implementation of the PCAs with the NIS, and to the south, with the resources, financial and practical, that have been promised to its Mediterranean partners. There is much work to do in the energy sector of the Mediterranean countries, whether it is to encourage liberalisation of the markets, support integration of the networks, or encourage the taking on of Western environmental norms. The same objectives that are driving the EU's policy towards Eastern Europe are also driving it south: markets for technology and political stability for energy supplies. One new initiative, different from those tried in Eastern Europe, the Euro-Mediterranean Energy Forum, looks like a good idea but has yet to prove itself.

The EU's relationship with the US is different from all the others discussed in this chapter. It is a love-hate partnership, rooted in democratic ideals and liberal economics, but based on a deep-seated need by each side to succeed in any conflict, so that its businesses can do better, and its citizens can improve their standard of living. As the two world economic powers, with many common and competitive interests, so often come up against each other in the international arena, it is no wonder that conflict sometimes erupts; this is the inevitable consequence of brinkmanship in international negotiations that gets opened up, by one side or the other, for one reason or another, into the public domain. This certainly happened over the important nuclear agreement negotiations in the mid-1990s, and again in the run-up to the Kyoto climate change conference. Another such issue was the US's d'Amato act, and the EU's Total (!) resistance to the extra-territorial nature of that legislation. The EU rightly held out against the US's bully-boy tactics and won its point in spring 1998.

*Conflicts are
inevitable
in EU-US
relations*

It makes good sense for the Commission to invest small amounts of money to encourage modern sustainable energy policies in the fast growing economies of Asia and Latin America. Energy consumption is likely to rocket in these areas in the near future, and the transfer of sound advice on energy efficiency and other environmental technologies must surely be advantageous for the long-term task of managing energy consumption. And, at the same time, the financed projects can help introduce EU companies to the expanding markets.

There must be a questionmark, though, over the need for the Commission to continue to operate two separate programmes for each region, those managed by DGI and the Synergy programme managed by DGXVII. The whole idea of DGXVII's Energy Framework Programme (EFP), incorporating Synergy, was to make the Community's energy actions more coherent, and yet, as far as Synergy is concerned, the real need for synergy is with the DGI programmes which continue well outside the EFP. The Commission is always at pains to explain the difference between the objectives of the two kinds of programmes, but the explanations do not always convince. In any case, even if the objectives of DGI and DGXVII are slightly different, there is no reason why they shouldn't be incorporated into one rational programme. Such a programme should probably be managed by DGXVII, but driven by a carefully compiled individual strategy for each region - one that incorporated both the foreign policy objectives of DGI and the energy policy objectives of DGXVII. The strategy, as with that developed for Asia, should detail the Community's interest in, and the needs of, the region and describe how Community support could dovetail the two together.

*Questionmark over
management of
international
energy schemes*

