

European Energy Policy and Energy Policy in Europe

By Pieter Vander Meiren*

The direct purpose of this article is to present a survey¹ of EU Energy Policy measures as they were issued over the last 40 years. Doing research on energy problems it appeared namely that these measures were scattered over a great number of official journals and not readily available in a single volume.

A first part of this article deals with energy as the object of government policy whereas a second part examines the basic principles and philosophy of E.U. policies. The third part presents the E.U. rules and regulations at present applicable in the energy sector and legally binding to member countries, present and future.

Energy as Policy Objectives

"Energy is central to economic and social activity in the industrial world. Therefore the conditions of supply, transport, distribution and consumption of energy are of interest to all."² Thus the introductory sentence of the E.U. Green paper in E.U. Energy Policy. In plain English this means: cut energy supplies and life comes very soon to a standstill. We revert to the era of manpower, horsepower and the whale oil lamp.

All this to stress that an efficient and adequate government energy policy aims at a reliable supply of energy at competitive prices and in environmentally acceptable conditions. This short sentence sums up the other main objectives of the energy policy, both of national and international authorities:

- a a reasonable security of energy supply
- b a well-functioning and free internal energy market with competitive prices
- c an energy supply and consumption which respects the conditions of a sustainable healthy environment

As these objectives are to some extent mutually contradictory the real art of running a successful energy policy is to balance the different elements in a way that the end-result is acceptable both to producers and consumers.

Basic Principles of International and E.U. Energy Policy

To energy economists not familiar with the legal niceties of international and, therefore, also of the European economic treaties, European Energy Policy and Energy Policy in Europe may be largely tautological expressions. In fact, they cover quite a different content.

The European Economic Union consists (at present) of 15 sovereign countries (and in a few years up to 27 countries) which in a number of international treaties have agreed to surrender their sovereignty to international authorities on a number of mutually agreed items. This means at the same time that member-countries continue to be competent for all other items, sectors or problems for which national sovereignty has not been delegated to supra-national institutions.

Treaties of importance for the energy sector are the ECSC Treaty creating a common market for coal and steel, the Euratom Treaty and the Treaties of Maastricht, Amsterdam

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¹ See footnotes at end of text.

and recently of Nice.

The ECSC Treaty created a common market for coal and steel with common objectives and common institutions. Thus this Treaty ensures customers equal access to sources of production, encourages investments and other measures improving the productive potential of member-countries and promotes international trade of coal and steel products. On the basis of this Treaty a number of specific energy regulations have been established for the coal sector (see point D-3 of this article).

The Euratom Treaty facilitates the development of an efficient nuclear industry. Chapters of this Treaty deal with investments, indicative programmes for production, research, health protection, supplies through the Euratom Supply Agency, safeguards and safety. On the basis of this Treaty several specific rules and regulations have been established (see subsequent section of this article).

Notwithstanding the efforts of the E.U. Commission, neither the Treaty of Rome nor its subsequent amending Treaties contain a specific or special chapter relating to the energy sector. The E.U. energy policy has, therefore, to be put into place in the basis of the general provisions of these treaties and more specifically the articles referring to the establishment of the Single European Market, the rules on competition, state aid, international trade, trans-European networks, environmental protection, consumer policy and the development of trans-European networks.

In this respect the establishment of the internal market by setting common rules and the removal of barriers, whether of public or private origin as fixed by the Single European Act, is of particular importance.

On the basis of the above principles and contents of the Treaties indicated above, a series of energy-specific rules and regulations were issued by the E.U. Council of Ministers, the decision-making institution of the European Union.

Specific E.U. Energy Policy Measures

Preliminary Remarks

E.U. rules, regulation, directives, recommendations relating to the energy sector approved since the coming into force of the European Treaties are quite numerous and spread over a great number of years and issues of the E.U. official Journal which are no longer easily available. Some of the older rules were revised later on or, in view of changed circumstances, abolished or amended.

The present-day "Acquis Communautaire" in the energy sector and presented in this article was established by the European Foundation for Cooperation in Energy Economics (EFCEE). This association groups the European Affiliates of the International Association for Energy Economics (IAEE). The immediate reason for the setting up of an up-to-date publication containing all E.U. energy policy measures was the fact that the countries from Central and Eastern Europe and the Baltic region, the so-called Accession Countries, have become aspirant-members who could join the E.U. in the near future on condition that they agree to apply the "Acquis Communautaire" i.e., the body of rules and regulations thus far agreed between member countries. As also in the energy field the aspirant-members would have to subscribe the Acquis Communautaire, the EFCEE undertook to set up an up-to-date publication containing the applicable rules and regulations

and to make it available to energy economists of Eastern Europe.

It was found very soon that, contrary to what we thought, a recent single inventory of E.U.-policy measures did not exist and that data had to be collected from several sources. The basic sources, the previous D.G. XVII and the Central Library of the European Commission, were very helpful.

The result was about 900 pages of text of decisions, regulations, recommendations, etc. spread over 4 volumes. As the EFCEE is a non-profit institution the "European Energy Legislation 1958-1999" is not available through commercial channels but can be obtained at cost-price by IAEE members. Companies interested in the European legislation in the energy field will find this publication indispensable as a reference book and a unique source of information.

Specific Energy Law

Before tackling the review per sector it is worthwhile to take a bird's eye view of the plethora of rules and try to classify them in a few broad categories and distil the basic philosophy which is at the basis of the legislation.

To start with the last aspect, the E.U. energy legislation reflects the time periods in which they were worked out as well as the attitude of national governments to the efforts of the Commission.

The rules applying to the coal sector are the oldest of the lot (some are more than 40 years old although several times rejuvenated). They reflect the supra-national power given to the High Authority as well as the coal problems of a few decades ago. They go into details which nowadays would probably not be politically accepted by Member states. (Think of the subsidiarity principle!).

Also the regulations pertaining to the nuclear sector show both the time image and supra-national power of the Euratom institutions. Legislation is both old and young with the accent shifting in the later years to environmental and social protection of employees (250 out of 560 pages of text in the EFCEE E.U.-Energy Legislation concern the nuclear industry).

The rules and regulations in the petroleum sector reflected definitively the oil scares of 1973 and early eighties: security of supply is the main theme of the adopted measures. Later on, under the influence of the rising interest for the environment policy, the focus shifted and attention turned to topics such as lead and sulphur contents in oil, etc.

The difficult labour of the rules and regulations in the gas and electricity sector confirms the political views of the growing number of Member states (each with its own economic interests and own ideas of how a single European gas and electricity market should function). After 40 years of Economic Union the liberalisation of the gas and electricity markets is as yet not fully realized.

As to the broad categories of the rules making up the body of E.U. energy legislation, an attempt of classification yields following results:

- quite a few measures are of a statistical informative nature: Member states are requested to inform the Commission of investment projects, prices, imports or exports, etc. These are the easiest rules and regulations to comply with.
- another series of measures is of a technical nature: maximum lead and sulphur contents of petrol, minimum stocks, substitute fuel components are

examples. The compliance with this kind of rules has more to do with technical capabilities than with political will.

- another series of measures belongs to the field of policy making: examples are the decisions establishing community rules for State aid to the coal industry, the directives on the organisation of the internal gas and electricity markets, methods of which can clash with the political desirability of maintaining employment in the region involved; the rule that gas and/or electricity prices ought to reflect long-term marginal costs can clash with social policy considerations to provide low-income earners with cheap energy.

- a final group of measures concerns action-programs in which the E.U. plays a role of promoting and stimulating of investments and for which complementary financial resources are available (Thermie, Save, Altener).

Footnotes

¹ European Foundation for Cooperation in Energy Economics "E.U. Energy Policy 1958-2000", Brussels, January 2001 - for details see the end of this article.

² European Commission: "For a European Union Energy Policy" - European Commission Green Paper, January 1995

Specific E.U.-Energy Policy Measures

The following pages present a synopsis of the Acquis Communautaire classified by subject.

Volume I : General Energy Policy Aspects

- 1 Objectives Community Energy Policy (241/86/EC)
- 2 Information on Energy Supplies (1729/76/EC)
- 3 Research and development
 - a Promotion on energy technology (Thermie) (2008 90/EEC)
 - b Technological development program for non-nuclear energy (484/91/EC)
- 4 Award of Contracts
 - a Information on contracts awarded for exploration and for extraction of oil, gas, coal and other solid fuels (327/93/EC)
 - b Procurement procedures in the water, energy, transport and telecommunication sectors (531/90/EC, 13/92/EC and 38/93/EC)
 - c Extension of procurement procedures to U.S.A. (324/93/EC)
 - d Exclusion of U.K. from procurement procedures (425/93/EC)
 - e Procedures for the award of public works contracts (27/93/EC)
- 5 International Cooperation
 - a The Synergy programme (701/97/EC and 2598/97/EC)
 - b Programme 1998-2002 for international cooperation (99/21/EC, 99/22/EC and 99/23/EC)
- 6 The Energy Charter and the Charter Protocol (181/98/EC, ECSC, Euratom)
 - a Application of Energy Charter Treaty and Protocol by the European Community
 - b Decisions with respect to the Energy Charter Treaty
 - c Energy Charter Protocol on energy efficiency and environment

(continued on page 26)

European Energy Policy (continued from page 25)

Volume 2 : Oil, Gas and Electricity

I OIL

A Foreign Trade

- 1 Common rules for imports (1243/86/EEC, 518/94/EC and 3285/94/EC)
- 2 Common rules for exports (2603/69/EEC and 1934/82/EEC)
- 3 Registration of petroleum products imports (649/80/EEC and 713/80/EEC)
- 4 Notification of imports and exports crude oil and natural gas (545/96/EC and 546/96/EC)
- 5 Licensing of intra-Community trade in oil (374/97/EC)
- 6 Modernisation of Polish oil sector (367/98/EC)

B Security of Supply

- 1 Authorisation for prospection, exploration and production of hydro-carbons (22/94/EC)
- 2 Hydro-carbon exploration in Greenland (547/96/EEC)
- 3 Minimum stocks of crude oil and petroleum products (414/68/EEC, 416/68/EEC, 425/72/EEC and 93/98/EC)
- 4 Difficulties in the supply of crude oil and petroleum products (238/73/EEC, 706/77/EEC and 639/79/EEC)
- 5 Restrictions in use of petroleum products in power stations
- 6 (405/75/EEC and 8/97/EC)

C Investment Projects

- Notification of investment projects (1056/72/EEC, 1215/76/EEC, 3025/77/EEC and 736/96/EC)

D Prices

- 1 Information and consultation on the prices of crude oil and petroleum products (491/76/EEC, 190/77/EEC and 883/81/EEC)
- 2 Information and consultation on crude oil supply costs and consumer prices of petroleum products (280/99/EC)

E Components in liquid fuel

- 1 Use of substitute fuel components in petrol (536/85/EEC and 441/87/EEC)
- 2 Lead content of petrol (210/85/EEC and 416/87/EEC)
- 3 Sulphur content of liquid fuels (12/93/EC and 32/93/EC)

II ELECTRICITY AND GAS

A Transit

- 1 Transit of Electricity (547/90/EEC and 167/92/EEC)
- 2 Transit of natural gas (296/91/EEC)

B Internal Market

- 1 Common rules for internal market in electricity (92/96/EC)
- 2 Common rules for internal market in natural gas (30/98/EC)

C Prices

- Gas and electricity prices charged to industrial end users (377/90/EEC, 87/93/EEC and 653/90/EEC)

D Trans-European Networks

- 1 Community financial aid (2236/95/EC and 1655/99/

EC)

- 2 Guidelines for trans-European energy networks (1254/96/EC and 1047/97/EC)

Volume 3 : Coal and Nuclear Energy

I COAL

- 1 Definition of "hard coal" and "brown coal"
- 2 Imports
 - Surveillance of imports of hard coal from third countries (707/77/ECSC and 161/85/ECSC)
- 3 State Aid
 - a Rules for State aid (3632/93/ECSC)
 - b United Kingdom (514/96/ECSC and 376/97/ECSC)
 - c Italy (515/96/ECSC)
 - d France (458/96/ECSC)
- 4 Investment
 - Information on investments (22-66/73/ECSC and 2237/73/ECSC)
- 5 Trade
 - a Prohibited commercial practices (30/53/ECSC, 1/54/ECSC, 19/63/ECSC, 1831/81/ECSC and 440/72/ECSC)
 - b Minimum stocks at thermal power stations (339/75/ECSC and 7/97/ECSC)
- 6 Prices
 - a Accounting documents (14/64/ECSC)
 - b Alignment of prices (443/72/ECSC)
 - c Protection against dumped or subsidized imports from third countries (2177/84/ECSC)
- 7 Technology
 - Clean and efficient use of solid fuels 1998-2002 (24/99/EC)

II NUCLEAR ENERGY

- 1 General Aspects
 - a Procedures Arbitration Committee (7/63/Euratom)
 - b Euratom classified information regulation (3/63/Euratom)
 - c Safeguard provisions (3227/76/Euratom, 2130/93/Euratom and 25/99/Euratom)
- 2 Supply
 - a Euratom Supply Agency (1/58/Euratom, 2130/93/Euratom and 25/99/Euratom)
 - b Transfer of small quantities (17/66/Euratom and 3137/74/Euratom)
- 3 Financing and Investment
 - a Euratom loans (270/77/Euratom, 271/77/Euratom and 212/92/Euratom)
 - b Investment projects regulation (4/58/Euratom, 1/58/Euratom and 2587/99/Euratom)
- 4 Protection Measures
 - a Advisory Committee on reprocessing irradiated nuclear fuels (237/80/Euratom)
 - b Shipments of radioactive (3/92/Euratom and 1493/93/Euratom)
 - c Safety standards against ionising radiation (836/80/Euratom, 467/84/Euratom, 466/84/Euratom, 641/90/Euratom, 29/96/Euratom and 43/97/Euratom)
- 5 International Cooperation
 - a Canada (217/78/Euratom)
 - b U.S.A. (50/74/Euratom, 254/74/Euratom and 314/76/Euratom)

- c Convention on nuclear safety (819/99/Euratom)

Volume 4 : Energy Savings and Renewables

I RATIONAL USE OF ENERGY

- 1 Energy efficiency
 - a Performance of heat generators and insulation (170/78/EEC and 885/82/EEC)
 - b Refrigerators and freezers (57/96/EEC)
 - c Hot-water boilers (42/92/EEC)
 - d Use of electricity (364/89/EEC, 565/91/EEC, 76/93/EEC and 737/96/EEC)
- 2 Labelling
 - a Labelling of household appliances (531/79/EEC and 75/92/EEC)
 - b Washer-driers (60/96/EEC)
 - c Washing machines (89/96/EEC)
 - d Dishwashers (17/97/EEC)
 - e Household lamps (11/98/EEC)

II RENEWABLES

- 1 Forestry and wood products (412/92/EEC and 413/92/EEC)
- 2 Altiner programme (500/93/EC and 352/98/EC)
E.F.C.E.E.

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The IAEE annually puts together an academic session at the ASSA meetings in early January. This year's session will be structured by Carol Dahl of the Colorado School of Mines.

The theme for the session will be "Current Issues in Energy Economics and Modeling."

If you are interested in presenting please send an abstract of 200-400 words to Carol Dahl at (cadahl@mines.edu) by May 25, 2001. Preliminary decisions on papers presented and discussants will be made by July 1. The program including abstracts will be posted at iaee@iaee.org by September 1, 2001. Please send abstracts in electronic format that is easily converted into program information. (e.g. word, wp, text).

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Campbell Watkins, Joint Editor, The Energy Journal.

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