

CCCU: Energy Governance Group Deconstructing the European Energy Union: Governance and 2030 Goals

Summary Points

- The one-day workshop explored some of the fundamentals of the recently-announced European Energy Union¹, its connection with established climate packages, and implications for energy governance.
- The proposed Energy Union package offers a variety of visions divided across five areas: energy security, an integrated internal energy market, energy efficiency, decarbonisation and research, innovation and competitiveness.
- Relying heavily on Member States solidarity (as per Art. 194 of the Lisbon Treaty), energy security proposals encompass project-based diversification, crisis management and emergency plans, and options for voluntary demand aggregation mechanisms for collective gas supply purchase in addition to closer integration of security of supply mechanisms with foreign policy tools.
- Energy market integration pushes ahead on completing wide-spread interconnector ‘hardware’ and legislative ‘software’, with TSO integration as a clear priority against a context of enhanced regional cooperation to keep energy prices affordable and competitive.
- Energy efficiency is aimed at demand side reduction (particularly in buildings and transport), focused on long-term decarbonisation goals via achievable 2020 and 2030 targets.
- EU Energy Governance remains an ambiguous concept, entailing multi-level authority designed to enhance EU impact within and beyond the EU, but as yet exercised sporadically across interrelated policies and overlapping sectors.

Introduction

Energy remains one of the most unsettled areas of EU integration. Broad structures and wide-reaching legislation have been in existence for a decade or more, yet much remains incomplete, from the ‘software’ of legislation to the ‘hardware’ of cross-border, and regional infrastructure. Completing the energy market has been a protracted business, frequently blown off course by both Member State obduracy and geopolitical tensions. Examining key facets of the newly unveiled EEU is therefore helpful in terms of appreciating the remaining market-based tasks to be accomplished, the green targets achieved, and the foreign policy demands to ‘speak with one voice’ set out.

This **briefing paper** presents a synopsis of the third Energy and Governance Group workshop, entitled *Deconstructing the European Energy Union: the Role of Governance and the 2030 Goals*, and held at Canterbury Christ Church University on March 20th

¹ European Commission, ‘A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy’ (COM) 2015, 80 final, 25.2. Brussels.

2015. Partners in the event include the University of Exeter (Energy Policy Group), UKERC and CCCU's Futures Initiative. Held within a month of the February 2015 announcement by Commissioner Šefčovič of the European Energy Union, the workshop was divided across three panels:

- European Energy Union Reviewed
- Climate and Energy Packages
- Energy Governance Reconsidered

Drawing together policy-makers, industry experts, analysts and academics from across the UK and Europe; panels included both panelists and moderators, to ensure additional insight and engaging Q&A. The overarching leitmotif of the event was the context of uncertainty clouding past and current EU energy policy and the potential inherent in the newly crafted energy package. Panelists generally suggested that the new package consolidated the historical objectives of security of supply, competitiveness, and energy efficiency but without a clear enough strategy as to how to achieve them in practical terms, or how the possible outcomes would gradually result in energy governance.

Panel 1: Exploring the European Energy Union

The first panel featured Mr. Manuel Szapiro, Cabinet Member for Vice-President and European Energy Union Architect Maroš Šefčovič, Professor Michael Grubb from University College London, and Counsellor Dr. Stefan Kordasch, Deputy Head of the Department of Economic Affairs at the German Embassy in London, moderated by Jonathan Gaventa of E3G.

Manuel SZAPIRO: The European Energy Union

Mr Szapiro introduced the European Energy Union (EEU) as the most ambitious European energy project since the European Coal and Steel Community, and “a project that will integrate Europe’s 28 Energy markets into the Energy Union, make Europe less dependent and provide the predictability that investors need to create jobs and growth”. Building on historic objectives of secure, sustainable, and competitive energy, the EEU broadens its scope to include a decarbonized economy, underwritten by research, innovation and competitiveness. To achieve these five ambitions, the structure of the EEU thus comprises a variety of preamble visions, 15 separate Actions and 43 Initiatives.

Energy security is principally achieved by diversifying energy supplies (both types and suppliers) and routes, with the Southern Gas Corridor, a proposed Mediterranean gas hub, and a comprehensive LNG strategy earmarked for priority. Increasing transparency on gas supplies, with the possible inclusion of ex-ante reviewed IGAs within Europe should not only clarify current import-export arrangements, but ultimately promote a stronger European role in global energy markets. Climate diplomacy and the uptake of energy security within foreign policy remain areas for future work. Achieving a **fully-integrated internal energy market** would be facilitated by the balance between completing wide-spread interconnector ‘hardware’ (alongside

major infrastructure projects) and legislative ‘software’, to assist in the reduction of technical and regulatory barriers. Moving from cross-border to full-fledged regional cooperation, the vision here is one of empowered customers whose market choice is boosted not only by improved market design but sequential concrete policy actions and new actors (e.g. ACER and ENTSOs).

Mr Szapiro then suggested that **energy efficiency** should be reconceptualised as an energy source, rather than merely a supply-side mode of efficacy. Here again, a balance of legislative-led initiatives (in the form of an Energy Efficiency Directive, a European Building Performance Directive, an Energy Labeling and Eco-design Directive should operate alongside sector-specific focuses to drive down waste, particularly in the areas of building and transport. Energy efficiency is a natural precursor to enhanced decarbonization, now a philosophy aimed at transforming not merely sectors, but entire economies. As Mr Szapiro made clear, an ambitious climate policy resting on concrete decarbonizing measures remains an integral part of the Energy Union, with the next challenge enforcing the 2030 energy and climate framework. Remaining a leader in renewables would ensure that EU green industry continued to work assiduously towards achieving a range of alternative fuels and clean vehicles.

Moving on to the requirements of **research, innovation and competitiveness**, Mr Szapiro asserted the vital need for the EU to maintain its technological leadership in low carbon technologies. Suggesting that the links here were deeply holistic, pioneering decarbonisation would not only mainstream modes of permanently diminishing energy consumption, but increase the chances of sector-specific improvements, boosting growth and jobs. Accordingly, concrete action were needed to improve research on decarbonisation, innovation in green technologies and industry-led competitiveness, all of which would be underwritten by an Integrated SET Plan; a strategic transport research and investment agenda. Lastly, Mr Szapiro made clear that delivering the EEU will require dynamic **governance** in terms of integrated climate and energy cooperation, as well as deepened Member State cooperation in terms of improved data intelligence, streamlined planning and annual reporting. He then concluded by asserting that the Commission itself will launch this same dynamic governance process.

Michael Grubb: Analyzing the European Energy Union

Professor Grubb analyzed a series of positive and negative dynamics that lay at the heart of the envisaged EEU. Suggesting that behavioral and organizational economics provide a helpful foundation for engaging with decision-making modes, Professor Grubb warned that clear-sighted developments in both national and European energy markets had been routinely compromised by poor decision-making issues, in which previous habits, myopia, inattention to incidental intangible costs, endemic contractual failures, principal agent failures, and risk aversion.

Enhanced decision-making requires engaging with three domains simultaneously: **satisfying, optimizing and transforming**, which applied to the energy industry means **economic optimization** based on relative pricing, representative agents operating with rational expectations, stable preferences and established technical trends. This in turn

must catalyze technical, structural, institutional and even behavioral change, from infrastructure investment to modes of governance itself. Reviewing the ability of European energy markets, Professor Grubb argued that Europe's energy systems are still "underperforming", centrally because the current market design does not lead to sufficient investment, but rather reinforces market concentration.

EU electricity and gas systems in particular are characterized by the lack of product differentiation, and incidental rather than deliberative consumption on the demand side. Centrally, Professor Grubb argued that the supply side is characterized by long-lived capital-intensive assets (infrastructure) containing limited options for transformation, with consumers remaining disengaged. Crucially, energy systems currently operate in more structured fashion, with none of the self-correcting mechanisms traditionally associated with second-domain neoclassical economics, with even less scope for benefits such as far-sighted market players, added-value spillover, risk-reward balances or the alignment of private with public goods.

Professor Grubb concluded by arguing for an enhanced awareness of the three interdependent components (or pillars) of the energy sector: standards and engagement which encourage smart choices; markets and prices that are designed to increase the demand for cleaner products; and investment and incentives geared to consciously underwriting innovation and infrastructure.

Stefan Kordasch: Surveying EEU Implications

Dr Kordasch began his presentation by locating the EEU first within a geopolitical context, suggesting that EU Council President Tusk should regard the EEU as deeply connected to events in the Ukraine. As such, 'improving the negotiating strength' of the EU as an energy buyer is a key requirement in order to deal efficaciously with Gazprom, as its key supplier. Carving out the EEU package has not been easy; indeed, much in the original proposals drew criticism from both Britain and Germany, neither of whom supported unilateral attempts replace aspects of a competitive market with single large, European buyer.

From an institutional perspective, the EEU is now as much a Commission *leitmotif* as it is a Council imperative, with key areas of shared competence be reviewed, and possibly transformed, including energy market design, security of supply, energy efficiency, renewables, interconnection, and combating the adverse effects of climate change. In terms of originality, Dr Kordasch suggested the 'EEU contains proposals that are to some degree enhanced on their predecessors'. Chiefly, the central role of an integrated energy market in which security of supply is central, rather than incidental, alongside policies in which enhanced cross-border solutions and interconnections are understood to improve European protection against both external and internal energy security hazards. Incorporating energy security 'as an integral part of EU foreign policy' is not only a vital diplomatic step forward, but would permit the EU to work more coherently, and thus constructively with its energy partners and suppliers.

Despite such additions, Dr Kordasch argued that much in the EEU remains vague, particularly the issue of a Governance Framework, despite the clear importance of

such a framework for the implementation of the 2030 climate package where member states have agreed to objectives and goal setting. In achieving key climate goals, he stressed the need for Member States' policies not only to be operationally in line with the aforementioned targets, but also supportive of monitoring and review mechanisms, in order to ensure that all outcomes are indeed heading in the same direction, and 'actually achieving the goals, as well as identifying where recalibrations are needed'. Dr Kordasch concluded his talk by discussing the European Semester Mechanism, a system that utilizes collective timing in economic and fiscal policy against a cycle of coordination monitored by the Commission, which in this case can be valuably expanded from 2020 economic strategy targets to benchmarking outcomes in an energy governance mechanism for the Union.

Panel 2 : Analyzing EU Climate and Energy Packages

Jesse Scott of the International Energy Agency and Mr Mark Johnston, Senior Adviser at the European Policy Centre constituted this second panel, which was moderated by Dr Matthew Lockwood of the Energy Policy Group at Exeter University.

Jesse Scott: The EU 2030 Climate and Energy Framework

Leading off with a few observations about the internal energy market, Scott suggested that because 'time is money', rapid unrolling of key EEU aspects was crucial. Currently, European electricity prices are driven by both domestic as well as competitive element; wholesale prices which have largely been static, are slowly rising, and yet overall the sector itself may not be profitable in real terms, particularly when adding on the costs of implementing renewable legislation, tariffs, levies and taxes. OECD electricity consumption trends are instructive: with residential buildings, commercial buildings and industry sectors comprising 96% of all OECD 2012 electricity consumption.

With the economic crisis, electricity consumption, and its accompanying GDP input have largely stagnated (the same trend is evident in the US). This in turn has affected investment, which – along with the ambiguity of policies on the retiring of high carbon, variable national approaches to energy efficiency, a weak carbon price - has produced an internal energy market that is 'little short of chaos' in many Member States. Given the substantial demands on Member States to invest in multi-sector low-carbon transitions throughout the energy sector, the pressure for an EEU that can reduce unpredictability by identifying factors that impact this transition strategy, and make clear the overall direction of the EU energy market is thus keenly felt. Areas of ambiguity remain, from the large infrastructure of ageing coal and nuclear plants, and associated issues like nuclear waste storage, to uncertain demand, inadequate market signals and inadequate carbon signals. Here, as elsewhere, a clear and supportive response within the EEU needs to be forthcoming, preferably within the context of both conventional and nonconventional technologies.

Turning to competition, Ms. Scott argued that at present, there is no such thing as a level global level energy playing field; Europe and the US for instance 'still operate via radically different energy strategies'. Competitiveness needs to be understood as a

‘whole-economy issue’, and requires a deft approach in imposing competition, as policies favoring and/or exempting one sector can negatively impact on others. Unfocused approaches in this respect, which utilize mechanisms like intra-European taxes, against a background of unharmonised national policies, produce only an ‘intra-European leakage’ across the market. Dutch and German steel companies for instance compete in the same market, but under different renewable, carbon and power prices. In terms of promoting real change in its power sector, Ms Scott argued that the EU must abstain from low-ambition goals that yield only piecemeal reform in few sectors to high-ambition goals that can not only spread the increased costs in the power sector to boost investment in low-carbon technologies (while absorbing the loss of market share from energy savings) to stable policies that can generate gains in the entire power sector. Concluding with insights into energy governance, Ms Scott underlined four possible outcomes for RES targets:

- EU RES target delivered through national targets and support schemes, leading to a fragmented and distorted market;
- EU RES target via EU harmonization of support schemes (as yet unclear), risks a distorted, fragmented market;
- EU RES target delivered through ETS, generating innovation support for immature RES, ensuring long-term full-market compatibility;
- EU RES target that remains unlikely as a result of current Commission attitude, and which cannot avoid German and European Parliamentary opposition.

Energy governance thus represents a ‘double trilemma’, in terms of security (import dependence, grid stability), sustainability (climate and goals) and affordability (poverty and competitiveness). These and related variables urgently need to be operationalized and then worked into future EEU strategies; as well as broader considerations that appreciate that real market transformation may take ten or even twenty years to accomplish.

Mark Johnston: Critical Analysis of the Climate & Energy Packages

Mr Johnston began by observing that the drivers of the EEU included broad political will to produce a 2030 climate package, the geopolitics of the EU-Russia gas trade, and the security issues engendered in the Ukraine. Turning specifically to climate policy, Mr Johnson explored the motivating factors for the 2030 framework, stating that a new package will emerge in the next two to three years. This would replace packages assembled between 2007 and 2009, which - in tandem with negotiating failures at Copenhagen and the economic downturn – had taken a while ‘to find their feet’. However, despite the high-profile emphasis lent to the 2030 package, political attitudes to climate and environment vary across the EU, with eastern European Member States remaining less concerned than their western counterparts. This east-west split may likely extend to geopolitical attitudes in general, producing even greater variability in terms of agreed strategies to tackling Ukraine and gas trade with Russia.

Regardless of the catalytic effect of Ukraine, and the increasing will to tackle climate change globally, binding climate legislation must not be delayed any further. This requires pushing forward, collectively in political terms and interactively, across the

interconnected parts of the EEU. The UK government for example, pushed for a climate-only approach, while doing very little for energy security. Commitments had to be clear from the outset. Referring to the concept 'at least', and its application to 2030 targets, Mr Johnston argued that goals with a fifteen-year timeline, operationalized in terms of 'at least 27 percent renewables' allowed for progress to occur 'reliably if not always predictably'. A flexible system with similarly flexible terms may permit fungibility where necessary. If certain mechanisms work better than expected, e.g. tackling the slack left by ETS uplift, adjustments can be made via caps, without having to transform the entire framework.

Turning to governance, Mr Johnston argued that a basic level of governance exists within European energy policy, as key aspects of energy, the environment, and the internal market are areas of shared competence between the EU and the Member States. Moving forward appropriate and swiftly is now the challenge. At the macro-level, legislation on energy savings is a strategic priority, because it represents an EU-wide strategic benefit, and should therefore be tackled via a framework of product standards. Despite having 'bitten off more than it can chew' in terms of electricity market design, Mr Johnston argued that the Commission must now press on, via the EEU, and clarify its suggested endpoint. Equally however, the risks of unrolling still-ambiguous plans within key legislation are great; promising too much too soon, and regretting retrospectively a lack of details in the initial composition.

Panel 3: EU Energy Governance Reconsidered

Moderated by Dr Amelia Hadfield of CCCU's Energy and Governance Group, the final panel featured Mr Antony Froggatt of Chatham House, Mr Patrick Larkin of the Energy Charter Secretariat, and Mr Josh Roberts of Client Earth.

Mr Antony Froggatt: International Energy Governance: why do we need it?

Mr Froggatt began by outlining the generic pillars of National Energy Policies, which include the environment, sustainability, security of supply, an energy policy that facilitates private sector involvement, and access to affordable energy. The key question is moving from national to global perspectives in terms of International Energy Governance (IEG).

The need for IEG is pressing. First, it is vital to forecast demand, GHG emissions and access to electrification (one person in five still lacks access to electricity, while almost three billion people rely on wood, coal, charcoal or animal waste for cooking and heating). Second, IEG's moving parts are vital components to our own markets, states, legal frameworks, technological and societal development, from prices, transparency, technology standards and regulation, to emissions targets; from financial rules and legal frameworks, to resources, infrastructure, transit, storage, and emergency plans. Accordingly, energy governance can be understood to operate in concentric circles. Energy governance flows out from the center, generating a short-term need for norms on sustainability, demand and supply, which over time begins to harmonize intra-state policies, ultimately producing a common strategic directive.

Third, the actors of IEG are key features of the international system, and include national governments, public and private companies (national and multinational), myriad consumers, alongside single-sector bodies (e.g. OPEC, IAEA, IRENA), international multi-sector energy bodies (e.g. IEF, IEA, ECT, JODI) and multi-policy governance actors (e.g. UN, WTO, ECAs, G20, IFIs). These actors exist in a similarly concentric fashion, operating on policies that are core and tangential to the energy sector, and all 'illustrating a different view, and form of governance'. Mr Froggatt then gave a brief overview of three actors, key to IEG development: OPEC, the IEA and the G20.

OPEC: Established in 1960, whose members hold 70% of existing energy reserves, and 40% of current production. In terms of governance, OPEC members coordinate petroleum production and pricing policies, ensure the stabilization of oil markets for stable oil supplies, guaranteeing steady income to producer countries and ensuring fair return on investments. Yet power games can and do occur, both from within (with Saudi Arabia operating with a preponderant ability to impact upon the cartel unilaterally) and without (OPEC did not cut production despite increased US production of shale, slower demand, and the economic downturn). This has transformed OPEC in terms of the type of governance it enacts, from a cartel with unilateral designs into a market player alongside other actors; with the result that 'OPEC ceded any semblance of control over the market and prices, instead pushing oil prices governed by market forces'.

IEA: Established by European states in 1973 as a response to the first oil shocks in an organization with strong institutional representation but insufficient membership, the IEA has a more devolved form of governance, in which it attempts to harmonize interests and coordinate consumers. Its two main policy areas encompass the provision of strategic and emergency responses (petroleum reserves, oil allocation programmes, coordinated response mechanisms) and the gathering and dissemination of energy empirics and consumption trends. The latter has added transparency and public availability to the growing list of norms subsumed within IEG, in addition to the mechanism of associate membership, which may in time include Brazil, China, India, South Africa, Mexico, Indonesia and Russia.

G20: Operating within the realm of summitry, and driven largely by what may obtain collectively from amongst the strategies of its individual members, the G20 is an entity in search of an institutional structure. Its governance thus replaces formal procedural mechanics with international public diplomacy in backing key features of the emergent north-south dialogue. In energy and environmental terms, this has produced calls rather than implementation strategies for the phasing out fossil fuel subsidies, the creation of the G20 Energy Sustainability Working Group as an inhouse forum discussing energy architecture, energy efficiency and gas supplies. Summitry ultimately will dictate that G20 governance remains seasonal but high profile, providing

opportunities to generate ideas, and impel leadership on key projects, ultimately reliant on the national commitment of its members.

Mr Froggatt concluded with a brief analysis of the EEU's own governance, set against the context of an emergent IEG structure. Avoiding pitfalls encountered by older IEG actors, he argued that the EEU must be more than a political compromise or an avoidance strategy. This demands that a clearer concept of governance itself be swiftly forthcoming from the EEU's upcoming strategies; without this, none of its five key elements will have any lasting value. As such, the need for integrated governance (beginning with EU-wide monitoring processes) to genuinely ensure that European energy actions are coordinated at European, regional, national and local levels is absolutely fundamental. The question of the moment is therefore when 'a dynamic governance process for the European Energy Union will become reality'.

Patrick Larkin: Exploring the Energy Charter Treaty

Mr Patrick Larkin contextualised his presentation with a brief insight into the European Energy Charter, as a product of the end of the Cold War, designed by Dutch Prime Minister Lubbers to establishment 'cycle of economic activities in the East'. Established in 1991, the Charter embodies a political commitment to east-west energy cooperation, and laid the foundation for the 1994 Energy Charter Treaty (ECT). The ECT is a legally binding agreement on energy trade, transit and the promotion and protection of investment, with 54 Contracting Parties, drawn largely from EU Member States, and former Soviet states (all but five of whom have ratified the Treaty). Although inspired by WTO standards, the Treaty remains the only multilateral legally binding agreement on energy, whose key benefit is to reduce investment risk, boost investment promotion and protection, enhance trade and transit, and provide dispute settlement.

Membership, ratification, and provisional ratification have bedevilled the ECT as regards Russia, which was a signatory of the ECT of 1994, and which provisionally applied it until 2009, when - spurred on by the potential losses, both jurisdictional and financial, anticipated in the high-profile Yukos case - it declared its withdrawal as a Treaty signatory.² Investment protection within Russia as covered by the Treaty not only remains in place for twenty years according to Article 45 3 (b), while the ruling itself illustrates that the 'ECT remains a powerful instrument in the protection of foreign energy investments'. Equally however, the future role of the Treaty, for Russia, and a number of its members and observers, is not as clear as it once was.

Accordingly, argued Mr Larkin, the time was right to examine updates to the ECT, and to look beyond its original Eurasian context. In 2012, the Energy Charter Conference launched **the Warsaw Process**, in order to strengthen the profile of the ECT as a global, rather than regional framework, drawing out its potential for enhancing international

² Under the aegis of the ECT, the arbitrating panel unanimously decided that Russia should compensate the claimants for the previous expropriation of assets, in an amount of \$US50 billion. Binding, and without further appeal, this represents a landmark decision in jurisdiction, as well as taxation and investment protection under the Treaty.

energy cooperation, and contributing to emergent forms of international energy governance (IEG). Briefly, this process entails revisiting key ECT provisions, and extending membership and observership to a host of countries, with an emphasis on North Africa and Asia, including China. With final negotiations to be decided in a Ministerial Conference (the Hague II) hosted by the Dutch government in May, the envisaged **2015 International Energy Charter** will reiterate 1991 principles, eliminate obsolete aspects and identify future energy challenges. In sum, the overhauled ECT should guarantee energy security for all producing, consuming and transit countries in a balanced manner.

From a legal perspective, Mr Larkin argued that Energy Charter remains compatible with the original proposals of 2010 for a European Energy Community by Jacques Delors and Jerzy Buzek, which as well as an integral part of the *acquis communautaire* since 1998. In this respect, the ECT provides a set of rules which the EU itself (as a REIO), along with its twenty eight member states share with the rest of the signatories. The continued value of the ECT lies in the balance of internal and external dimensions. As a binding legal framework, the ECT should bolster, not hinder, the EU's ability to unroll its EEU; buoying agreements on the diversification of routes and sources thank to its investment protection provisions. With Caspian states and Turkey fully covered by the ECT, Mr Larkin argued that opportunities should be sought in MENA region, as well as sub-Saharan Africa, where emerging producers may viably contribute to Europe's energy security he said. Equally, China and emerging G20 economies must play a greater role in the ECT, and in this way, facilitate in the long-term, the construction of IEG.

Mr Larkin concluded by observing that 'international energy relations may not evolve according to European wishes and agreed principles'. Consequently, the EU must engage globally, contributing its own structures and values to construct a non-discriminatory, level-playing field that would form the core of an emergent IEG. Embedded in international law, the ECT can facilitate international energy co-operation if properly utilised. However, this depends strongly upon the political will of the EU, as well as individual signatories in supporting Hague II initiatives and its subsequent implementation.

Josh Roberts: The EU Climate & Energy Governance Debate

Mr Roberts began by defining governance as 'the allocation of power and responsibility for the delivery of agreed outcomes'. In the context of EU climate and energy policy, governance signifies 'the various substantive, procedural and institutional arrangements put in place at EU and national levels to ensure the achievement of climate and energy objectives'. The origins of governance are the treaties. Article 3(3) TEU for instance sets a 'high level of protection and improvement of the quality of the environment as an EU objective', while Article 11 TFEU advocates the 'integration of environmental protection requirements into the definition and implementation of Union policies and activities'. Articles 191 - 193 TFEU meanwhile establishes environmental protection, including combating climate change as a **shared EU – Member State competence**, via co-decision between the European Parliament and the Council; with special legislative procedure applying to measures that

significantly affect a Member State's choice between different energy sources and their general energy supply structure.

However, the balancing act is never easy. Despite the context of shared environmental protection competence are explicit provisions to ensure that certain choices 'shall not affect a Member State's right to determination for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article 192(2)'. The revision of RES targets was a case in point, with Mr Roberts underlining that because 'targets will not be translated into nationally binding targets' there was a real need for a new governance framework, based on:

- the development of national planning and reporting;
- the establishment of indicators for competitive, secure and sustainable energy;
- indicators for transparency, reliability and predictability for investor certainty;
- enhanced consumer roles and rights.

To deepen the EEU's nascent governance structures, Mr Roberts emphasised the need for full and swift implementation of existing energy legislation, with clear commitments to review legislation for post-2020 contexts. In addition, clearer policy signals were sought from the Commission on the roles of ACER and ENTSOs, the methodology and timetable of reporting, as well as the EU's own reporting via the Parliament and the Council, in the form of the 'State of the Energy Union'. The first step in this regard may require striking a balance between completing energy legislation, and working out non-legislative strategies between the EU and the Member States on the achievement of targets. Approaches that avoid an undue focus on detailed implementation should be encouraged; equally, institutions (e.g. ACER and ENTSOs) that may inherit increased carrying capacity for driving forward governance, should be endowed with accountability and transparency mechanisms. Ultimately, the responsibility lies with the Commission to clarify the nature of governance at work in the EEU: does it operate as an umbrella agreement with individual strategies for 2030 targets? Or will it divide into a series of theme-specific frameworks with their own targets, benchmarks and assessments.

The opportunities to be derived from a workable EEU include heightened policy stability, and investment certainty in envisaged energy transitions, increased trust and solidarity between Member States themselves, and with EU institutions, as well as stronger roles for citizens and local communities, helping to reinforce the legitimacy of long-term action on climate and energy. Absent a coherence and consistency between the moving parts of the EEU however, the EU risks launching 'a governance system largely outside the rule of law', energy market fragmentation, which in turn would damage investor confidence, erode EU legitimacy at home and abroad, and ultimately compromised the current achievements of EU level climate and energy objectives.

Concluding Observations

In summing up the presentations, Dr Hadfield reiterated the point that there was not as yet a clear internal logic amongst the moving parts of the EEU, nor a clarity of definition in terms of governance, nor a sharp idea as to how energy governance relates to other key EU policies. In terms of improved analysis, Dr Hadfield suggested a range of concepts that urgently need clarification within the current EEU setup, in order to render more workable its inputs and outputs:

- The structure of governance: hierarchy, concentric circles, or level-playing field?
- Competing vs. complementary interests: key DGs, Council and Parliamentary Committees, Member States, private sector players, and regulatory actors.
- Methodology: targets vs. achievement; forms of measurement, as well as what is (and is not) measured.
- The terrain of energy governance: Member State and Eurozone, extending to non EU domains, the EEA, non-Eurozone, Neighborhood zones, Strategic Partners, etc.
- Collaborative or conflicting legal frameworks: the *acquis*, the ECT, key provisions in EU foreign policy agreements, EU trade agreements.

Ultimately, the EU can entertain three visions of governance, in which key EEU elements are incrementally added in progressively constructing European energy governance, with a view to enhancing the overall 'actorness' of the EU.

First, a **loose form of governance**, driven by an ongoing commitment to the exceptions of Article 194 of the Lisbon Treaty, providing only thin connections between Member States' development of their own energy resources, energy mix choices, and general structure of energy supply. Security of supply dynamics would remain thinly harmonised, despite pushing ahead on climate commitments and implementing sustainability as a cross-sector policy. This approach ensures flexibility amongst key actors but increases the hazard of fragmentation. Second, **mid-range governance**, in which the Commission begins to operate as a contract interlocutor, consolidating its role on ex ante supply contract oversight and deepening its ability to pull together internal market goals of completion legislation, ramping up the use of competition law to ensure a level playing field, and actively instigating decarbonizing goals. **Robust energy governance** converts mid-range governance goals from ends to means in order to achieve a clear vision of an EEU within the medium-term. In addition, robust governance requires enhanced political commitment to the principle of solidarity inherent in Article 194, and crucially, the ability to recast Article 194's exceptions in light of the strategic interest of the EU, rather than merely national interests, in those issues and circumstances where the strategic integrity of the EU is itself at stake (e.g. collective gas purchase, etc.).

In drawing to a close, the questions and answers entertained throughout the day could be understood to have settled into three key categories: (1) a need for clarification of the concepts and structure emerging from the first EEU package; (2) greater understanding of the sequence, implementation, timetable and evaluation of EEU strategies and related legislation in practical terms; (3) a sharper vision of the desired

interaction of the EU and other international actors in the construction of IEG structures.

In sum, the realization of a vibrant and functionally effective Energy Union remains a real challenge. At present, the EEU remains torn between collective, market-driven dynamics designed to enhance cross-border cooperation in both hardware and software in a swift and wholesale fashion and abiding national energy security preferences reflecting self-contained Member State preferences. The vision is to balance both sides, which moving progressively deeper in terms of regional and international structures of energy governance.