

# Brexit and energy: the view from Europe

Blog post by Practice Lead Matthew Duhan, 02 May 2017

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Today, the BEIS Select Committee released its report into the UK government's Brexit negotiating priorities on energy and climate change. The report highlights important issues, including the need for a delay in the UK's exit from nuclear cooperation agreement Euratom, potential "special arrangements" to maintain a single Irish energy market, and the view that the UK should not leave the EU-ETS before 2020, but should consider alternatives if the EU-ETS cannot be reformed. But largely it is a plea for the status quo, reflecting both the economic benefits of membership of the internal energy market and the views of a sector which mostly believes that Brexit's energy challenges can be separated from its turbulent politics.

Reading the Committee's report against the EU27's Brexit negotiating guidelines - which were agreed this weekend - suggests that such a view risks complacency. The guidelines make clear that anything resembling ongoing single market access rights during a transitional period "would require existing Union regulatory...structures to apply". While the prospect of continuing adherence to the EU rulebook might be reassuring for the energy sector, it could present inviting targets for advocates of 'hard Brexit', for example, should the UK be unable to scrap its 2030 renewables target. Indeed, suggestions that the Conservative Party's proposed energy retail price cap could be vulnerable to challenge in Brussels - something previously implied by CMA energy inquiry chief Roger Witcomb - indicate that this could occur sooner rather than later.

But the bigger question is the terms on which the UK might more permanently participate in the internal energy market post-Brexit. Here, the energy sector is subject to some general Brexit risks. The EU27 is clear it will only sanction a second phase of negotiations on a future trade agreement after "sufficient progress" has been made on a first phase dealing with the terms of the UK's exit. The EU27's decision to rule out sector-by-sector agreements and its adoption of the negotiating principle that "nothing is agreed until everything is agreed" highlight that the energy sector cannot completely detach itself from the more heavily politicised parts of the exit negotiation, such as the UK's future financial contributions to the EU and the rights of current EU and UK residents. And in the negotiation of a future trade agreement, the Swiss experience, where negotiations on an energy deal with the EU were blocked over disagreements on freedom of movement and dispute settlement arrangements, is extreme but cautionary.

But the specific question for the energy sector is how much policy and regulatory autonomy is compatible with the level of UK participation in the internal energy market that the BEIS Select Committee recommends? As in other sectors, in energy, the EU27 is determined to limit the UK's ability to go 'offshore' and undercut European regulatory standards. This is largely about energy costs and competitiveness, but it is worth remembering that the UK's geographical proximity means that British environmental standards are a European issue; memories remain of the acid rain which affected northern Europe in the 1980s and 1990s. As such, the EU 27 guidelines' demands that any

future FTA provide “a level playing field” are notable in their identification of state aid and environmental regulation - areas highlighted as possible opportunities in the BEIS Committee’s report - as key areas in which to find safeguards against “unfair competitive advantages”.

The BEIS select committee report is a comprehensive and important review of the energy and climate change policy priorities for the UK in the Brexit negotiation. But it is only one half of the picture. As the EU27 continues to indicate that the rights of access to the internal energy market will be contingent on accepting the obligations of its regulatory frameworks, the sector may be about to discover that even though you might not be interested in Brexit, Brexit is interested in you.

Issue	BEIS Select Committee recommendation <sup>1</sup>	Report paras
Internal energy market (IEM)	<ul style="list-style-type: none"> <li>▪ Seek continued IEM access with no tariffs or barriers to trade</li> <li>▪ Continue participation in European network codes</li> <li>▪ Seek continued UK influence over IEM rules, including through full membership of technical bodies such as ENTSO-E/G</li> <li>▪ Retain membership of IEM as a transitional measure until alternative arrangements established</li> </ul>	40, 41
EU-ETS	<ul style="list-style-type: none"> <li>▪ Retain membership of EU-ETS until end of Phase III (2020), negotiate future membership contingent on reform</li> <li>▪ In case of no reform, consider alternatives such as UK-only market linked international schemes</li> <li>▪ If UK leaves EU-ETS, revise the 5<sup>th</sup> Carbon Budget upwards on the advice of Committee on Climate Change</li> </ul>	76, 77
Euratom	<ul style="list-style-type: none"> <li>▪ Delay departure from Euratom to allow industry to establish alternative arrangements</li> <li>▪ If retaining Euratom membership is untenable, seek a transitional arrangement to retain existing arrangements under new framework</li> <li>▪ Explore options such as third party membership to maintain existing research cooperation</li> </ul>	95, 99, 100
Ireland	<ul style="list-style-type: none"> <li>▪ Continuation of single Irish energy market, either through UK access to IEM, or “special arrangements” for the island of Ireland</li> </ul>	51, 52
Investor confidence and future UK energy system	<ul style="list-style-type: none"> <li>▪ UK government should provide a clear and long-term vision for the sector to support investor confidence and to underpin negotiating objectives</li> </ul>	114
Other	<ul style="list-style-type: none"> <li>▪ Reduce VAT on energy efficiency products</li> <li>▪ Retain majority of energy efficiency regulations and energy product standards</li> </ul>	137, 140

<sup>1</sup> [Leaving the EU: negotiation priorities for energy and climate change policy](#)