

# **The Limits of EU Energy Policy**

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# EU Energy Policy: Limitations

- Any EU energy policy is limited in:
  - scope**, by constitutional limits imposed by the EU treaties; and
  - effectiveness**, by challenges posed by global energy markets.
- Debate on policy should proceed on a basis of understanding of the limitations.
- Final analysis should lead to a focus on the promotion of effective competition in EU energy markets



- EU action on energy policy is undertaken within the context of a ‘devolved’ framework.
- These devolved powers are subject to explicit treaty limitations, without any explicit authority for the development of a common energy policy.
- “Constitutional Treaty” set out clear mandate for common energy policy, based on:
  - ensuring the functioning of the energy market;
  - ensuring security of energy supply;
  - promoting energy efficiency and renewables.



# Limits II: Bundling

- Commission has identified the bundling of monopoly and competitive businesses as a major obstacle to a competitive market.
- Proposed ‘unbundling’ measures may affect Scotland in forcing the sale of Scottish transmission assets.

- **Article 295 EC**

*“This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership”*

- Concerns from both sectors:
  - **public sector**, because of loss of state control; and
  - **private sector**, because of principle of non-discrimination



# Limits III: Mergers

- ‘National Champions’ deals tend to escape Commission scrutiny and benefit from domestic political benevolence.
  - *GasNatural/Endesa 2006 (Spain)*
  - *Eon/Ruhrgas 2002 (Germany)*
  - *RWE-VEW 1997 (Germany)*
- While cross border deals with less issues tend to fall within EC jurisdictions
  - *Iberdrola/SP 2007 (Spanish-UK)*
  - *GdF/Suez 2006 (Franco-Belgian)*
- ...and may face attempts at creating national hurdles
  - *Eon/Endesa*



# EU's role in energy security

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- Can EU play a leading role in securing energy supply on top of its pursuit of environmental and competition agendas?
- National political accountability for investment in supply leads to Member State control of security of supply issues.
- Directive on Security of Electricity Supply and Infrastructure Investment, to be implemented by February 2008, really just a restatement of national policies.
- Directive focuses on national rather than collective action for tackling security of supply issues.



# EU's role in renewables

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- EU has opportunity for implementing policies on the environmental front; the effects of such policies can be seen locally, e.g. Longannet
- EU-wide emissions trading regime will encourage low carbon sources of generation.



# The challenge: making the pieces fit

