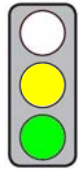


## MAIN ISSUES

**Objective of the Communication:** The Commission presents its energy strategy 2020.

**Parties Affected:** The national economy as a whole, in particular power supply companies, all citizens.



**Pros:** (1) The Commission wishes to better coordinate the development of European energy grids.

(2) The announced “energy roadmap 2050” can improve the plannability of infrastructure investments.

**Cons:** (1) It is not enough to call for climate protection policy measures to be in line with the market. At the same time, the Commission must speak out against regulatory measures, especially in its technology policy (“ecodesign”).

(2) The obligation of energy distributors and suppliers to ensure energy savings for their customers encourages unnecessarily expensive energy savings.

## CONTENT

### Title

**Communication COM(2010) 639** of 10 November 2010: **Energy 2020 – A strategy for competitive, sustainable and secure energy**

### Brief Summary

#### ► Background and aims

- The Commission presents a comprehensive EU energy strategy covering the period until 2020 (“Energy Strategy 2020”) to replace the existing Action Plan, “An energy policy for Europe” [COM(2007) 1; see [CEP Policy Brief](#)].
- In 2011, the Commission wishes to present its “energy roadmap 2050” and various scenarios for a long-term EU energy mix, in order to achieve a low-carbon energy supply.
- The Commission criticises the current EU energy policy in that:
  - the internal energy market is still fragmented;
  - there is a lack of energy system investments of EUR 1 trillion and technological progress;
  - the efforts by Member States to increase energy efficiency are “disappointing” (p. 3);
  - EU-wide strategies against bottlenecks on oil markets and natural gas supply and transit countries are missing.
- The energy strategy 2020 comprises five “priorities”, each embracing several “actions”.

#### ► Priority 1: Increase in energy efficiency

##### – Action 1: Use of energy-saving potential: buildings and transport

- The energy-efficient renovation of buildings is to be expedited through investment incentives.
- In public procurement, “energy criteria” (energy-efficiency, renewables, “smart networking”) should become a precondition [cp. KOM(2008) 400, see [CEP Policy Brief](#)].
- The White Paper announced by the Commission on future transport policy is intended to present measures for environmentally-friendly urban transport and for concepts and energy-efficiency standards that apply to all transport systems and vehicles [cp. already COM(2009) 279, see [CEP Policy Brief](#)]. Moreover, more efficient car-labelling systems should be explored.

##### – Action 2: Reinforcing competitiveness

- The Ecodesign requirements for energy and resource-intensive products are to be widened [Directive 2009/125/EC, see [CEP Policy Brief](#)].
- “More extensive” energy-labelling should be introduced for products [Directive 2010/30/EU, see [CEP Policy Brief](#)] (p. 8).
- In the industry and services sector, “energy-management schemes” should be introduced (e.g. energy audits, energy efficiency plans, energy managers).

##### – Action 3: Reinforcing efficiency in energy supply

- Energy efficiency in production and in distribution is to become an essential criterion for the authorisation of generation capacities and the uptake of high efficiency cogeneration, district heating and cooling.
- Energy suppliers and distributors are to be obliged to:
  - ensure energy savings for their customers and
  - speed up the introduction of “smart meters”.

- **Action 4: Benchmarking through national action plans for energy efficiency**  
Member States should monitor the progress of energy efficiency through measurable objectives and indicators. To this end, their National Energy Efficiency Action Plans (NEEAP) [see [CEP Compass](#), p. 42, in German only] should serve as the central report and benchmarking tool.
- ▶ **Priority 2: Building a “pan-European integrated energy market”**
  - **Action 1: Implementation of existing EU legislation**
    - There is to be a full and timely implementation of EU legislation for the internal energy market [see [CEP Compass](#), p. 13 et seq., in German only].
    - The regional sub-markets [“regional initiatives”, see [CEP Compass](#), p. 18 et seq., in German only] should be better “coupled” (“market coupling”).
    - The public trust in large traded markets is to be increased through more transparency and surveillance.
    - If, for that purpose, the measures or the remit of the EU energy agency ACER [see [CEP Compass](#), p. 20, in German only] prove insufficient, the Commission will propose further legislative measures.
  - **Action 2: Planning the European infrastructure 2020–2030**
    - The energy infrastructure, which is necessary for a functional internal energy market as well as for the supply of renewable energies and the security of the energy supply, is to be planned on an EU-wide level.
    - By 2015, all Member States should be integrated into the internal energy market.
    - Cross-border “energy corridors” are to be determined.
    - With the support of ACER, the European network of transmission system operators for electricity (ENTSO-E) and for gas pipeline networks (ENTSO-G) are to develop EU-wide “10-year network development plans” [see [CEP Compass](#), p. 20, in German only].
    - In 2011, the Commission intends to:
      - propose measures to substantiate strategically important infrastructure projects “of European interest” for the period until 2030 and
      - present an “energy 2050 roadmap”, on the basis of which ACER, ENTSO-E and ENTSO-G can develop an EU “blueprint” for electricity and gas grids between 2020 and 2030.
  - **Action 3: Removing technical and regulatory barriers**
    - Permitting procedures for infrastructure projects “of European interest” are to be “streamlined and improved”, for instance through the “nomination” of a single authority at national level “one-stop shop” (p. 12).
    - Through “open and transparent debates” at local, regional and national level, they are to enhance public trust in and acceptance of the projects.
    - In order to introduce regional market “coupling” by 2014, ACER should by then solve all technical barriers (such as harmonisation and standardisation) and regulatory “issues”. This applies to:
      - interconnections of cross-border networks,
      - access to renewable energies and
      - the integration of new technologies.
  - **Action 4: Financing**
    - The Commission intends to analyse the “optimum balance” between public and private financing of infrastructure projects. To this end, it wishes to apply the “user pays”, the “beneficiary pays” and the “tax payer pays” principles (p. 14).
    - For unprofitable infrastructure projects “of European interest”, public funds are to be used to cover the main risks or to speed up project implementation, in order to create a positive investment climate.
- ▶ **Priority 3: Consumer protection and safety and security standards**
  - **Action 1: Consumer-friendly energy policy**
    - The functioning of the energy markets for end consumers is to be improved.
    - Reports on the implementation of rules protecting consumers in the internal energy markets are to be published on a regular basis.
  - **Action 2: Improving safety and security standards**
    - The Commission intends to propose better safety and security standards for nuclear plants and waste, improved safety in the workplace and liability rules regarding plant construction.
    - The Commission further intends to propose stricter rules regarding precaution, emergency and liability in oil and gas production.
- ▶ **Priority 4: Further development of energy technologies**
  - **Action 1: Prompt implementation of the SET plan**
    - The Commission wishes to speed up the implementation of the strategy plan for low carbon energy technologies [SET Plan COM(2009) 519, see [CEP Policy Brief](#)].
    - The Technology Roadmaps of the European Industrial Initiatives for 2010-2020 are to be given additional financial support.
  - **Action 2: New EU energy projects**
    - The entire EU electricity grid system, from the off-shore wind farms to hydro-electric dams and solar plants to the end consumer, is to be linked in order to make it “more intelligent”, efficient and reliable.

- Technologies for electricity storage both for “large-scale” and for vehicles are to be promoted in order to enable the electricity grid to take up renewable energies.
- The Commission wishes to support “large-scale” biofuel production.

► **Priority 5: Strengthening the external dimension of the EU energy market**

– **Action 1: Integrating EU neighbour countries**

The [Energy Community Treaty](#) between the EU and seven South East European countries, which integrates them into the internal EU energy market, is to be extended to include other EU neighbour countries, should they wish it.

– **Action 2: Establishing “privileged partnerships”**

The EU should establish “reinforced energy partnerships” with key suppliers and transit countries.

### Statement on Subsidiarity by the Commission

According to the Commission, energy policy decisions have an “inevitable” impact on other Member States. Moreover, the greatest economic efficiency gains on the energy market can only be made Europe-wide. Therefore, the EU is “the level at which energy policy should be developed”: “The time has come for energy policy to become truly European” (p. 4).

### Policy Background

With its Article 195 TFEU, the Lisbon Treaty gives the EU the legislative basis for a coherent energy policy that it has been striving for since 2007 [see [CEP Compass](#)]. According to the action plan “An energy policy for Europe” [COM(2007) 1, see [CEP Policy Brief](#), in German only], the main energy policy challenges are securing energy supply, ensuring EU competitiveness and combating climate change. In 2007, the European Council adopted the “[20-20-20-targets](#)”: By 2020, the EU will reduce its greenhouse gas emissions by 20% compared to 1990; Member States will save at least 20% of the EU energy consumption projected for 2020 through an improved energy efficiency; in 2020, the share of renewable energies in the overall energy consumption will total at least 20%; in addition, each Member State must increase their share of biofuels in transport-related petrol and diesel consumption by up to a minimum of 10%. Since then, these strategic targets have gradually become more concrete, through the adoption of legal acts and initiatives by the Commission, in particular on energy efficiency [COM(2008) 772], on the security of supply [COM(2008) 781] and on energy technologies [SET Plan COM(2009) 519, see [CEP Policy Brief](#)]. The legal acts include, in particular, the “climate package” [see [CEP Study](#)] and the “Third internal energy market package” [see [CEP Policy Brief](#)].

### Options for Influencing the Political Process

Leading Directorate General:  
Consultation procedure:

DG Energy  
Consultation outcomes from May to July 2010 [[CEP Policy Brief](#)]:  
[http://ec.europa.eu/energy/strategies/consultations/2010\\_07\\_02\\_energy\\_strategy\\_en.htm](http://ec.europa.eu/energy/strategies/consultations/2010_07_02_energy_strategy_en.htm)

## ASSESSMENT

### Economic Impact Assessment

#### Ordoliberal Assessment

As the Communication does not contain any concrete measures regarding the areas which the Commission believes are essential, only a general assessment is possible.

In order to establish legal certainty and ensure a level playing field in the EU, the intended full and timely implementation of the latest internal market package and closer market coupling of the regional sub-markets are necessary. **The “energy roadmap 2050” announced for 2011**, which is to contain long-term scenarios for the energy mix in 2050, **was supposed to** make the debate on the setting of the energy policy agenda more objective, thereby **fostering plannability, which is essential for investments into energy infrastructure**. However, in view of the long period and the complexity of the subject matter, it cannot be expected that with such a “roadmap” it might actually be possible to already plan energy policy for the next forty years.

The announced EU-wide safety and security standards for nuclear plants and waste are an important precondition for a well-functioning internal energy market.

#### Impact on Efficiency and Individual Freedom of Choice

**The planned improvement of coordination and future-oriented planning (2020-2030) of the cross-border infrastructure development in the EU** is indispensable for the implementation of the internal energy market. Both are also **required in order to keep the infrastructure pace with the politically driven development of renewable energies**. To ensure that incentives are not created for too expensive, misdirected or unnecessary infrastructure projects, the costs for this development should, as a general rule, be only borne by users who benefit from a higher security of supply or lower energy costs. Tax-based financing should be considered only to a very limited extent in exceptional cases. The costs incurred by the use of

renewable energies must be charged to the respective energy producers, in order to avoid misdirected incentives.

**Energy efficiency** should be implemented not through policy decisions but through market forces. However, as the EU has already adopted ambitious energy efficiency targets, it is now essential to achieve them **at the lowest costs possible**. The plan to extend the labelling of the energy consumption of products is a step in the right direction. However, it is equally important that the Commission refrain from any inefficient dirigiste actions in product policy. **To this end, the planned new product regulations within the scope of the Ecodesign Directive (2009/125/EC) should be rejected.**

Furthermore, **the planned obligation of energy suppliers and distributors to ensure energy savings for their customers cannot guarantee economically efficient energy savings.** Apart from that, it leads to considerable problems with measuring, as an energy saving can only be recorded with recourse to a hypothetical energy consumption without saving efforts.

Finally, with the planned benchmarking process on the national allocation plans for energy efficiency, the Commission wishes to assess and compare the energy saving policy of Member States. This triggers a dynamic in which the economic efficiency of energy savings is more and more pushed into the background: it is no longer the market players who decide which efficiency measures are beneficial, and it is no longer the market through which they explore cost-effective methods of energy savings, instead it is the policy of Member States and ultimately the EU Commission that decides.

#### Impact on Growth and Employment

Subject to the still unknown concrete implementation measures the following applies: a secure and reliable energy supply that is free of waste is extremely important for growth and employment.

#### Impact on Europe as a Business Location

See impact on growth and employment.

## Legal Assessment

### Legislative Competence

Unproblematic. The EU is empowered to adopt measures related to energy policy in order to ensure the functioning of the energy market and the energy supply, to foster the interconnection of cross-border networks and to promote energy efficiency, energy savings and the development of new and renewable energy sources (Art. 194 TFEU).

### Subsidiarity

Currently not foreseeable.

### Proportionality

Currently not foreseeable.

### Compatibility with EU law

The Commission's proposal to "streamline" the permitting procedures for infrastructure projects of "European interest" could conflict with the participation rights of the parties affected and the public. In terms of EU legislation, these are laid down in particular in the EU Directive providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment [2003/35/EC], which is based on the international Aarhus Convention, and in the Directive on the assessment of the effects of certain plans and programmes on the environment [2001/42/EC]. An assessment will not be possible until the concrete proposals by the Commission have been published.

### Compatibility with German Law

The proposed "streamlining" of the permitting procedures for infrastructure projects of "European interest" is potentially interferes strongly with the Member States' planning right and the participation rights of parties affected and the public.

## Conclusion

The planned improvement of coordination and the future-oriented planning of cross-border infrastructure development in the EU is necessary in order to implement the internal energy market and to ensure that the infrastructure can keep pace with the politically driven development of renewable energies. The announced energy policy "energy roadmap 2050" can improve the plannability of long-term infrastructure investments. However, it would be unrealistic to plan the future of energy policy for the next forty years.

Energy efficiency should be achieved at the lowest possible costs. To help with this is the strengthening of market-oriented instruments, such as the labelling of the energy consumption of products. However, it is equally important that, in future, the Commission refrains from inefficient dirigiste actions. In particular the planned expansion of product regulation on the basis of the Ecodesign Directive and the obligation for energy distributors and suppliers to ensure energy savings for their customers are therefore counterproductive.