

Book Review

Haghighi, Sanam Salem

Energy Security: The External Legal Relations of the European Union with Major Oil and Gas Supplying Countries

Oxford: Hart Publishing (2007)

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As the title suggests, Haghighi takes a legal approach to the analysis of European Union (EU) energy policy. This book begins from the premise that while much work has been done on the development of the EU internal energy market, the evolution of European law and its link to energy security has been overlooked. Following on from this premise, Haghighi analyses current European law on the basis of its ability to provide a stable, transparent framework, within which the EU's external energy relations may be conducted.

The book may be divided into three distinct sections. The first section (Chapters One, Two and Three) lays the groundwork for the study. Chapter One provides a discussion of energy security as a concept, and puts forward the main argument of this book – That diplomatic relations do not provide enough transparency in terms of rights and obligations of the parties involved, to ensure security of energy supply, and that a clear and stable legal framework is needed to provide such transparency. Chapter Two offers a historical overview of the development of security of energy supply in Europe from 1951 to 2006, and suggests that 2006 was actually a watershed, in that the focus of European energy security began to shift from purely 'internal' considerations to external considerations. Chapter Three considers the division of competences between the European Community (EC) and the member states regarding security of energy supply, and concludes that there has been an imbalance between the progress on internal developments (such as the internal EU energy market) and the failure to develop equivalent policies on external energy security.

The second section of the book (Chapters Four, Five, and Six) provides the main, in-depth exploration of the topic at hand. Chapter Four considers EU measures providing for internal energy security, and the impact of these internal measures on external energy security. Chapter Five considers the external outlook of European energy security, and in doing so examines the issues of investment, trade and transit with reference to the Energy Charter Treaty (ECT) and GATT/WTO. A significant argument put forward in this chapter is the call for the Energy Charter Secretariat (ECS) to assume a more active role in encouraging more states (especially energy-producing states) to sign up the ECT, and to ensure that the specific interests of such energy-producing countries are fully taken into account. Indeed Haghighi concludes at the end of Chapter Five that the ECT in itself is to date the most successful attempt to create a legal framework for energy relations, but that the framework itself will be virtually worthless unless the ECS is able to convince more of the major energy-producing countries sign up to it. Chapter Six then presents three case studies which in turn examine EU energy relations with Russia, the Mediterranean region and the Persian Gulf. Here Haghighi illustrates the reasons why the EU co-operates more closely with Russia than the other two regions noted above, but calls for a more balanced approach and greater co-operation with all three in a manner which not only takes their interests into account, but also the interests of the energy-transit states in between the EU and the energy-producing

states. While Chapter Six focused on commercial elements (investment, transit and trade in energy), Haghighi suggests that two more sides of the 'triangle' remain to be considered: The economic development of the energy producing and transit states, and the creation of a common EU foreign policy towards these states.

The final section of the book builds on the analysis conducted in the second section, and offers policy recommendations. Chapter Seven examines the two 'missing sides of the triangle' noted above, and concludes that the EC should be doing more to aid the development and diversification of the economies of energy-producing countries, on the basis that this will increase European energy security. Furthermore, Haghighi calls for the Common Foreign and Security Policy (CFSP) to design a framework which ensures that member states conduct similar, consistent and coherent energy relations with the energy-producing countries. Haghighi suggests that such a framework could influence member states political relations with energy-producing countries, and that the resulting political coherence and stability would in turn contribute to the security of energy supply from these states. In the end, Haghighi concludes that various actors will continue to play a variety of roles in guaranteeing European energy security, and that the role of the EU (through the ECT and ECS) should be to create a stable and transparent environment in which these actors may act, and to provide a framework for relations which would enable them to act coherently and consistently.

On the whole, Haghighi's book represents an impressive and extremely thorough analysis of the legal basis for the EU's external energy relations, and the conclusions it draws are both clear and valuable. As such it is a must read for anyone interested in the issue of European energy security.

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This is an impressively broad, yet detailed, study of the external legal relations of the European Union (EU) with major energy-supplying countries. Although primarily a legal text, Sanam Salem Haghighi has succeeded in producing a book of much wider significance. Not content to provide a meticulous description of European law in the energy sphere, the author offers a carefully considered prescription for broadening out and improving EU external energy policy.

The book opens with an exemplary summary of the key issues, which stresses the vital status of energy in any industrialised economy and underlines that energy security remains a contested concept with no settled definition. This initial section will serve as an excellent introduction for newcomers to the field, yet does feature one significant error. Haghighi is correct to note that oil is a globally traded commodity, while the market for gas remains primarily regional. However the author is quite wrong to claim that oil is susceptible to manipulation 'while gas does not have such political characteristics' (p. 13). Indeed, although the impact of oil supply shocks is more global, it is the gas trade that is actually more prone to politicised disruption. This is because regional trading patterns and inflexible infrastructure enable gas-exporting countries to target and isolate individual import-dependent states.

Following this otherwise excellent introduction, Haghighi offers a detailed history of European energy security. Beginning in 1911 with Winston Churchill's momentous decision to convert the British Navy's fuel source from domestic coal to imported oil, the author proceeds to chart the steady growth of Europe's energy dependence, while emphasising that energy has always been central to the European integration project. However, as the chronological development of European energy policy is described, it quickly becomes apparent that this is a history of bold ambition and repeated failure. Each time the continent faces an energy security challenge the need for policy reform is proclaimed, yet decisions

persistently fail to match declarations. Notable in this regard is the fact that it is the Union's most recent efforts that are singled out as being particularly feeble.

With this history complete, the author turns to the task of providing a comprehensive delineation of legal competences over energy between member states and EU institutions. This section is more specifically about European law and will therefore prove trickier for those unfamiliar with legal texts. However the author deserves credit for keeping the explanation as lucid as possible. Her starting point is to make a sharp distinction between the internal and external outlooks. The former refers to the EU's endeavour to construct an efficient and secure internal energy market, whilst the latter relates to the Union's dealings with energy-exporting countries. This differentiation is important because, while there is little explicit treaty basis for supranational competence over energy, the EU has used secondary legislation to gradually accumulate authority over internal policy. This jurisdictional creep does not, however, extend to the external outlook. Therefore, while Haghighi is sanguine (perhaps overly so) about the progression of internal energy policy, she argues that it needs to develop a more concerted external energy policy in order to manage its growing energy dependence more successfully.

To begin with, Haghighi advocates shared competence for external energy policy between EU institutions and member states. She then unveils a more ambitious agenda. The crux of her argument is that, rather than conducting relations with energy-exporting states on a purely commercial basis, external energy policy should more explicitly incorporate political and developmental policies, thus creating a triangular and interdisciplinary approach. Firstly, as well as forging a more cohesive European foreign policy, it is argued that the Union needs to improve the formal mechanisms for engaging with major energy producers. While some structures already exist – such as the Energy Charter Treaty and EU-Russian Energy Dialogue – Haghighi claims that these need to be substantially extended and reformed. Secondly, the author proposes that the EU's development policy should be targeted at helping oil- and gas-producing states to achieve higher living standards and economic growth by means of economic diversification, integration with global institutions, and improved technology transfer.

Although cash-rich energy exporters may bridle at the idea of receiving development assistance, the basic idea is seductive. In Haghighi's view, energy dependence need not necessarily equal energy insecurity. Security is established by means of strong, institutionally-grounded, and reciprocal relations with one's principal suppliers. At present, Europe does not enjoy such a situation since formal mechanisms remain undeveloped and are not believed by producers to sufficiently reflect their interests; it is therefore little surprise that major exporters, such as Russia, continually refuse to ratify the Energy Charter Treaty. According to Haghighi, Europe must do more. By acting together to develop an external energy policy that offers investment, development assistance and more balanced modes of political engagement, the continent will profit from improved relations with energy producers, whilst also promoting transparency, sustainability and improved social conditions.

In terms of weaknesses, the most obvious criticism that can be levelled at Haghighi is undue optimistic. She clearly underestimates the obstacles to creating a cohesive European external energy policy. Given member states' very different energy needs, the long list of previous failures, and energy's status as a strategic good, her appeal to member states' feelings of loyalty and solidarity seems politically naïve. Additionally, although written recently, certain elements of this book are already a touch dated. For instance, there is little mention of the extent to which the international investment climate for western oil majors has deteriorated and no account is taken of rejection and reformulation of the EU Constitution. However, these faults are minor. In general, this is an impressive book and a first-class contribution to the literature. Whilst functioning as a unified piece of work, the book will also serve as a useful reference guide. It is essential reading for students of EU energy law, but will also be of great value to anyone with a general interest in European energy security.