5. Case study: the European Union

INTRODUCTION

The EU has long been at the forefront of international efforts to combat climate change and was influential in the development of the United Nations’ climate treaties: the 1992 UN Framework Convention on Climate Change (UNFCCC) and the 1997 Kyoto Protocol (EC, 2011a). In March 2007, EU heads of government agreed to reduce emissions by 20 per cent by 2020. In 2014, this figure was revised to 40 per cent by 2030. In the months following the 2007 decision, the European Commission released a detailed plan in line with the longer term perspective set out in the Roadmap for moving to a competitive low carbon economy in 2050, the Energy roadmap 2050 and the Transport white paper. The EU had a single-minded focus on climate change and was prepared to embark on this costly programme without a similar commitment from other major contributors to global emissions such as the United States (US), China and India. Schmidt (2008) contends that European policy on climate change is a reflection of the European political and social culture, noting that most western Europeans have long been concerned about global warming and other environmental problems. This was demonstrated in the 1997 decision of the heads of member states to amend the Treaty establishing the European Community to embed protection of the environment as the Treaty’s third pillar alongside economic growth and social protection (Europa, 2012b).

GOVERNING INSTRUMENTS

The constitution of the EU merits comment because of its unique statutory relationship with member states. The treaty that forms the EU, the Treaty of Maastricht, includes provisions for the protection of the environment and contains the requirement that the EU must consult on matters of social policy with employers, workers and civil society. Both are matters not usually addressed in the rules governing the state. Another feature of the EU model is the statutory framework that sees the coexistence of
Business, organized labour and climate policy

regional (European) law with the domestic law of the member states, a model replicated only in countries that are federations with the right to frame laws at federal and state levels such as the US, Australia and India.

The European Union is an economic and political union of 28 member states and was formed by a treaty process. The first treaty was written in 1951 as the European Coal and Steel Community and was followed by the 1957 Treaties of Rome, which established the European Economic Community and the European Atomic Energy Community. The 1993 Treaty of Maastricht formally established the European Union and the concept of European citizenship (Eupolitix, 2013). Since its initiation in 1951, membership has grown from six to 28 states at 2007 and the scope of the treaties has expanded. The 1997 amendment to the Maastricht Treaty added protection of the environment to the objectives of economic growth and full employment. The amendment provided that the European Community:

shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. (European Community, 1999, Art. 3)

The belief that a post-war Europe should provide its citizens economic and social equity is reflected in the provision in the 1957 Treaties of Rome, which required that the representative organizations of business, workers and civil society be consulted in the process of developing European law and practice. The Treaty at Article 300.1 provides that ‘the European Parliament, the Council and the Commission shall be assisted by an economic and social committee and a committee of the regions, exercising advisory function and . . . [the committee] shall consist of representatives of organisations of employers, of the employed and of other parties’ representative of civil society’ (European Union, 2010, Art. 300.1). To ensure this happens, the European Economic and Social Committee (EESC) was established, through which the European Parliament, Council and the Commission is required to consult on matters such as social policy, social and economic cohesion, environment, education, health and consumer protection.

The Treaties are binding agreements with member states that set out the objectives and rules for the EU institutions and how decisions are made. Under the Treaties, the EU institutions can adopt legislation on which member states are required to act. The EU cannot propose law that is outside the scope of those Treaties. The laws of the EU function alongside the individual laws of each member nation. When there is conflict between
the EU member nations’ law and EU law, EU law takes precedence (Eupolitix, 2013). The pervasiveness of EU law in the policy and practice of the state is further observed in the UK study in Chapter 6.

The EU and member states can also establish charters. Their legal status may be one of political declaration if the agreement that forms the Charter is not unanimous and where it is unanimous it forms part of the treaty and has legal status (European Parliament, 2001). Charters adopted by the member states include the Community Charter of the Fundamental Social Rights of Workers (Eurofound, 2011a), European Social Charter (Council of Europe, 1996) and the Charter of Fundamental Rights of the European Union (European Parliament, 2007).

The three pillars of economic, social and environmental wellbeing in the 1997 Treaty on the European Union and the suite of social charters are a reflection of the political and social expectations of European people. It is necessary to recognize these expectations in order to understand why employers’ organizations and trade unions are afforded special and protected status through the EC Treaty and the Charters. The Treaty and the Charters integrate the social partners into the fabric of the institution and the social policy regime envisaged in the Maastricht Treaty reforms (Barnard, 2002; Falkner, 2011).

Eurofound (2011c) research concludes that social dialogue helps to enrich the process of governance in the EU by including the social partners as informed actors to participate in the deliberative process and that the social partners are core actors in that process and must have the right to participate. The qualification to this support for the social partners and the maintenance of the democratic element in the deliberation is that the social partners still need to be representative and to be internally democratic, transparent and accountable. Accordingly, more attention needs to be paid to ensure the quality of the deliberative process (Barnard, 2002; Ebbinghaus, 2002; Falkner, 2011). This does not fully answer the question of why the EU continues to place faith in organizations that underperform in some areas. However, it does lead to the conclusion that the EU’s faith is a reaffirmation of the community’s acceptance that employers’ organizations and trade unions are rightful participants in the policy process. At the European level, the peak bodies that are the social partners have almost unanimous affiliation with the organizations in the member states. It is the state organizations where the representativity is challengeable.

The social partners in the EU member states are widely reported as being supportive and active participants in the process of policy development and delivery on sustainability and climate change (EC, 2011a). The European Commission views social partners as playing an important role in the economy as a whole and the labour market in particular. With
respect to climate change, the EU looks to their social partners to create consensus on the implementation of policies across industry and society. The EU has confidence in the ability and leadership of the social partners, expressing the view that ‘a shared analysis of employment opportunities and challenges by social partners can contribute greatly to a well-managed and socially just transition’ to a low carbon economy (EC, 2011a, p. 153).

EU CLIMATE AND ENERGY COMMITMENT

In March 2007, the EU leaders adopted an integrated approach to climate and energy policy that aims to combat climate change and increase EU energy security while strengthening competitiveness. They committed to the 20:20:20 targets of a reduction in EU greenhouse gas emissions of at least 20 per cent below 1990 levels; 20 per cent of EU energy consumption to come from renewable resources; and a 20 per cent reduction in primary energy use compared with projected levels by improving energy efficiency, all to be achieved by 2020 (Europa, 2010b). The core package consists of four complementary programmes: revision and strengthening of the emission trading system (ETS); an effort-sharing rule governing emission from sectors not covered by the ETS; binding national targets for renewable energy; and a legal framework to promote the development and safe use of carbon capture and storage. The package creates pressure to improve energy efficiency but does not address it directly, which is done by the EU energy efficiency action plan (EC, 2006). Further sectoral initiatives address sustainable mobility (EC, 2011c) and the construction sector, and are listed in Table 5.1.

Table 5.1 Construction sector initiatives

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<tr>
<th>Flagship initiatives</th>
<th>Legislation</th>
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<td>Resource efficient Europe</td>
<td>Energy Services Directive2006/32/EC</td>
</tr>
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<td>Low carbon economy 2050 roadmap</td>
<td>Eco Design Directive 2009/30/EC</td>
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<td>Roadmap for a resource efficient Europe</td>
<td>Labelling Directive</td>
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<td>Energy 2050 roadmap</td>
<td>EPBD 2010/31/EU</td>
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<td>Energy efficiency plan 2020</td>
<td>Construction Products Directive</td>
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<td>Strategy for the sustainable competitiveness of the EU construction sector</td>
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<td>Innovation Union</td>
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In 2014, the EU adopted its 2030 Climate and Energy Framework, which succeeds the EU 2020 climate and energy package. It sets three key targets for the year 2030: at least 40 per cent cuts in GHG emissions from 1990 levels; at least 27 per cent share for renewable energy; and at least 27 per cent improvement in energy efficiency.

The framework is also in line with the longer-term perspective set out in the *Roadmap for moving to a competitive low carbon economy in 2050*, the *Energy roadmap 2050*, and the *Transport white paper*. In addressing GHG emissions, the framework provides for making fair and ambitious contribution to the new international climate agreement, the ETS sectors would have to cut emissions by 43 per cent and non-ETS sectors would need to cut emissions by 30 per cent. It is estimated an annual investment in emission reduction programmes of US$38 million is expected to be covered to a large extent by fuel savings (Europa, 2016).

The development of strategies to achieve the targets is the responsibility of the member states and the strategies adopted differ depending on the particular features of the domestic economy, society and stages of development. The Climate Policy Tracker for the EU (WWF, 2011) was a 2010 report of the findings from surveys of all EU member states using 83 indicators to measure policy effectiveness. It found that based on present policies and member state commitment, the EU targets will not be met and most states will only achieve one-third of their targets, with the exceptions of the major economies of France, Germany and the UK that have already met their Kyoto targets and were well on track to meet their aims under the EU Climate and Energy Package. In the end the EU did meet its Kyoto targets but the prediction of underperformance of some states held true. The Climate Policy Tracker also reported that the performance for many states is defined by the ambition in EU legislation and that EU policies assist many states in formulating policy. This is not surprising, but it does provide a further insight into the pervasiveness of EU legislation and policy in the behaviour of member states.

SOCIAL PARTNERS, EMPLOYER ORGANIZATIONS AND TRADE UNIONS

‘Social partners’ is a term generally used to refer to representatives of management and labour. ‘European social partners’ specifically refers to those organizations at the EU level that are engaged in European social dialogue as provided under Articles 154 and 155 of the Treaty on the Functioning of the European Union (Eurofound, 2011c).

European law recognizes as social partners the peak organizations of
organizations which themselves are an integral and recognized part of member state’s social partner structures and have the capacity to negotiate agreements (Eurofound, 2011c). The major and representative European social partner organizations are BusinessEurope and the European Trade Union Confederation (ETUC).

The advocacy of BusinessEurope and business and employers’ organizations in member states concerning climate change is aimed at ensuring companies remain competitive during the greening of the economy process (BusinessEurope, 2013b). Their perspective of a low carbon economy is one that is framed around cost-effective policy options, investment in infrastructure, promoting green technology, ensuring a level playing field internationally, minimalist regulation and corporate social responsibility options (BusinessEurope, 2013c). Activities by employers’ organizations on greening the economy are generally directed at engaging in political debates, publishing position papers and promoting green skills (Eurofound, 2015).

ETUC and trade unions in member states advocate for a just transition that includes dialogue, skill adaptation and investment in green jobs (ETUC, 2010). Activities by trade unions on greening the economy are generally directed towards demanding a voice as a political actor. Their instruments are involvement in political debates, publishing position papers, conducting training for union representatives and initiating actions in individual workplaces (Eurofound, 2015).

EU research reports that social partners in the member states are involved in policymaking on low carbon economy issues from policy formulation onwards through to implementation, where they express their positions on policy proposals and programmes (Eurofound, 2011b; EC, 2011a). At the EU level, the ETUC is active at the stage of policy formulation but this engagement is not shared by BusinessEurope, whose regular contribution is as a participant in peer-review panels for proposals generated by the European Commission or Parliament.

BusinessEurope is a federation of national business and industry associations in Europe. The organization’s membership is made up of 41 national federations from 35 countries (BusinessEurope, 2013d). It does not have sectoral associations or corporate or individual members, although it does have 55 partner companies that may access its networks within the EU and participate in its working groups (BusinessEurope, 2013d). The only formal alliances maintained by BusinessEurope are with the European Commission through the EESC, and the NGOs Alliance for a Competitive Europe and Alliance for CSR. It has informal affiliations with groups formed for specific purposes such as the Climate Change Roundtable. BusinessEurope members are individually affiliated with international agencies such as the International Labour Organization (ILO) or the
International Chamber of Commerce (ICC) and BusinessEurope only participates in the international climate and sustainability events as part of the Euro delegation.

The governing body of BusinessEurope is the Council of the Presidents, which determines its general strategy. The Executive Bureau comprises representatives of ‘the five largest countries, the country holding the EU presidency and five smaller countries on a rotation’ (BusinessEurope, 2013d, p.1). The Bureau monitors the implementation of the annual programme, keeps other member organizations informed of progress and responds to issues as they arise. The Executive Committee is a committee of the Directors-General of all members who are responsible for translating strategy into activities and tasks. There are seven policy committees and approximately 50 working groups supported by a secretariat of 45 staff based in Brussels (BusinessEurope, 2013c).

BusinessEurope describes its main task as ensuring that company interests are represented and defended vis-à-vis the European institutions with the principal aim of preserving and strengthening corporate competitiveness (BusinessEurope, 2013c). BusinessEurope explains that it is actively engaged in European social dialogue in order to find solutions reconciling the economic and social needs of labour market players and to devise concrete arrangements that benefit both companies and employees. The BusinessEurope brief for employment and social affairs responds to the concerns about rising unemployment, an ageing workforce and increased international competition. It contends that structural reforms are needed to improve labour market flexibility, secure the availability of a skilled workforce – including through economic migration – and put in place modern social policies. Their aim is to have more people in work, working more productively (BusinessEurope, 2013e).

BusinessEurope is credited as always giving detailed input in all aspects of the EU climate and energy policy at the political and technical levels. It broadly supports the EU climate change objective, but insists that industry’s international competitiveness and energy security should not be harmed by unilateral EU action (EC, 2011a). Until recently, BusinessEurope had not established a profile as an opinionated advocate on environmental and related regulatory issues. Its advocacy on climate change policy was concerned with energy security and ensuring companies remain competitive in the process of greening the economy (Eurofound, 2011a; BusinessEurope, 2013b). However, during 2013 BusinessEurope campaigned vigorously against the 2012 European Commission proposal for a twin tranche approach to fixing the depressed carbon market by short-term back-loading (withholding the release of the next tranche) of carbon allowances, to be followed by long-term structural change before
Business, organized labour and climate policy

the end of 2013 (Euractiv, 2012). BusinessEurope’s stance divided industry, with BusinessEurope lobbying hard against any interference in the market and, in opposition, a coalition of energy companies and others welcoming the initiative and calling for it to be extended further (Euractiv, 2012).

The EU’s intervention proposal was ultimately defeated in the parliament. It was reported in the EU monitor Euractiv (2013) that BusinessEurope’s lobbying had been strongly influential in the vote and that a letter sent by BusinessEurope’s Director to the EU President Herman Van Rompuy ‘showed that the industry group priorities had influenced the [Parliament’s] agenda’ (p.1). The subsequent release of the European Commission Green Paper *A 2030 framework for climate and energy policies* has seen BusinessEurope maintain its vocal advocacy, arguing the review should address the flaws in the package rather than proposing further intervention (BusinessEurope, 2013f).

In the lead up to the 2015 Paris COP, BusinessEurope advocated for an ambitious legally binding global agreement, which reflects the long-term objective of limiting global warming below 2 degrees Celsius. Its platform was that the development of a global carbon market should play a stronger role in the future and economic instruments can best help to stimulate investment in innovative low-carbon technologies and products in locations where they deliver the greatest. It fully endorsed the EU Emissions Trading Scheme (ETS) as the cornerstone of EU climate policy, while keeping strong protection measures for sectors on the global industrial market until main competitors have comparable carbon costs.

The ETUC (2013b) describes its purpose as speaking with a single voice on behalf of the common interests of workers at European level. Its prime objective is to ‘promote the European Social Model . . . where working people and their families can enjoy full human and civil rights and high living standards’ (ETUC, 2013b, p. 1). Membership of the ETUC consists of 85 national trade union confederations from EU member states and 10 European trade union federations (ETUC, 2013c). The ETUC Congress meets every four years and is responsible for the overall policy and decision-making of the confederation. The Executive Committee and smaller steering committees are responsible for implementing policy between congresses, while the Brussels-based Secretariat runs the day-to-day activities (ETUC, 2013b).

The ETUC made the issue of climate change a priority of its sustainable development strategy in 2002 (Eurofound, 2011a). It drew up the first ‘Union proposal for a European policy on climate change’ (ETUC, 2004) and actively debated proposed EU climate change legislation including the green paper on energy efficiency (ETUC, 2011a), the revision of the EU’s emissions trading directive and the Climate and Energy Package (ETUC, 2011a). It established a civil society coalition in 2001 with the NGOs
European Environmental Platform and Platform of European Social NGOs, which annually submit recommendations for a social and sustainable Europe to the EU Councils Spring Summit (EC, 2011a).

The ETUC also commissions research both through the union-sponsored research agency and think tank European Trade Union Institute and independently. Their 2007 research *Climate change and employment: Impact on employment in the EU-25 of climate change and CO₂ emission reduction measures by 2030* (ETUC, 2007) was a major contributor to the debate concerning the impact of climate change policy on the labour market. It evaluates the economic shifts and employment consequences of climate change and serves as a useful companion to the ILO’s report on the impact of jobs in the transition to a low carbon economy (Worldwatch Institute, 2008). The major recommendations from that research are that planning for policies that have a social impact should be through tripartite forums and involve social dialogue and collective bargaining; policies should be easier to predict to allow the anticipation of the social consequences and ruptures; and measures should be taken to maximize positive spin-offs for employment and setting socially sustainable criteria for publicly funded projects (ETUC, 2007).

The ETUC approach to policy development and member engagement to achieve leverage in the EU is demonstrated by its 2013 sustainable mobility research project (ETUC, 2013d). The research process brought together industry stakeholders in a series of workshops and commissioned research externally to inform the policy development on sustainability in the transport sector. The ETUC’s advocacy is based on what it terms the five pillars of a just transition: stakeholder consultation, green and decent jobs, the responsibility of the state, labour rights and social protection. This is a more expansive definition than the ILO definition of a just transition which is based on the ILO Labour Conventions and provides for the recognition of workers’ rights, decent work, social protection and social dialogue (Worldwatch Institute, 2008).

The ETUC’s current strategy is reflected in its ETUC action programme 2015–2019 Re: Sustainable Development, in which it declares it will pursue the following objectives:

- A change to the European and global economic model based on long-term investment, a stable but ambitious regulatory framework and a strong social dimension so as to bring about a ‘just transition’ to a green economy for all Europeans.
- A sustainable investment strategy for Europe.
- No funding for projects at odds with the environmental commitments of the EU.
Business, organized labour and climate policy

- Development of a low-carbon and sustainable strategy for European industrial policies.
- A just transition policy framework with strong EU financial support based on the five pillars of social dialogue, investment in quality jobs, greening of education, training and skills, trade union rights and social protection to tackle climate change (both mitigation and adaptation) at both the European and international levels.
- An effective European energy community.
- A resource-efficient Europe.
- The greening of the labour market.

CONCLUSION

The EU and its member states recognize the necessity of the transition to a low carbon economy and that this transition involves social and economic opportunities and costs. The state is the main actor in the transition, although the social partners in the EU are regarded as important stakeholders and social dialogue has an important role to play, helping to create consensus among membership for climate-related policies.

The essential difference between the ETUC and the BusinessEurope approaches is that the ETUC is actively advocating its position and flooding the discussions about social policy and climate change with research and policy papers that support its position. BusinessEurope, in contrast, is more issues focused, responding to current issues in order to draw attention to its policy position. The European Commission (EC, 2011a) rationalizes these different approaches, noting that social partners act first and foremost where they have direct competencies. For the ETUC, this is the distribution of benefits, rights and obligations of workers, while for BusinessEurope it is how the transition to a low carbon environment will impact on the economy.

This chapter provides a number of significant contributions to the book. It explores why and how employers’ organizations and trade unions are afforded special and protected status and integrated into the fabric of the European institution. It poses the question of why the EU continues to place faith in organizations that underperform in some areas and where their legitimacy and representativity is challenged. It concludes that the EU and the member states as the statutory authorities are the main actors in the transition to a low carbon economy, and the social partners are rightful participants in the policy process and provide a supporting role.