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LAW REPORT XIII

*Edited by*  
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## European Energy Law Report XIII

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## PREFACE

The editors are very pleased to present the *European Energy Law Report XIII*. The *European Energy Law Report* is an initiative taken by the organisers of the European Energy Law Seminar which has taken place on a regular basis in the Netherlands since 1989. The aim of this seminar is to present an overview of the most important legal developments in the field of international, EU and national energy and climate law. Whereas the first seminars concentrated on the developments at European Community (EC) level, which were the results of the establishment of an Internal Energy Market, the focus has now gradually switched to the developments at the national level following the implementation of the EU Directives on the internal electricity and gas markets, promoting renewable energy sources, mitigating climate change and securing energy supply. This approach can also be found in these reports.

Similar to the previous *European Energy Law Reports*, this book includes chapters based on papers presented at the preceding European Energy Law Seminar, held on an annual basis. This Report, however, covers the main contents of the European Energy Law Seminars from both 2018 and 2019. It examines some new developments following from the liberalisation of the electricity market, the hydropower sector, investments in the energy sector and the increased role of flexibility, but also the other side of the coin – the gradual closure of coal-fired power plants and nuclear plants, as well as the decommissioning of offshore oil and gas facilities. The latter is again linked to the need to reduce carbon dioxide emissions, which notably rely on the use of carbon capture and storage (CCS) technologies, and the opportunity to re-use and re-purpose installations. Renewable energy generation and CCS are climate mitigation instruments to reduce CO<sub>2</sub> emissions and are often considered in national climate plans and climate laws, which are examined in the last part of the book. This Report thus contains six parts: ‘Newcomers in the Electricity Market: Aggregators and Storage’, ‘Hydropower Concessions in the EU: A Need for Liberalisation or Privatisation?’, ‘Investments and Disinvestments in the Energy Sector’, ‘Offshore Decommissioning in the North Sea’, ‘CCS as a Climate Tool: North Sea Practice’ and ‘From EU Climate Goals to National Climate Laws’.

We are grateful for the support of the speakers at the seminar and their co-operation in rewriting their papers for the purpose of this book. We also would like to thank the authors and co-authors who were not speakers at the

seminar but who were willing to participate in this project so that we are able to provide you with a 'complete' picture of all the topics discussed. Finally, we would like to acknowledge the help and support of the publisher in publishing this book. We are confident that these reports will be part of an important and long-lasting tradition in this field.

Martha M. Roggenkamp and Catherine Banet  
Groningen/Oslo, 30 October 2019

# CONTENTS

<i>Preface</i> .....	v
<i>List of Abbreviations</i> .....	xxi
<i>List of Contributors</i> .....	xxvii

## Introduction

Martha M. ROGGENKAMP and Catherine BANET .....	1
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## Chapter I. How is the Energy Sector Faring at the EU Courts? A Year in Review

Adrien DE HAUTECLOCQUE, Elise VAN DIJK and Daphne TER TELGTE .....	13
1. Introduction .....	13
2. Selected Cases: Energy and Environment. ....	14
2.1. The <i>Hinkley Point C</i> Case .....	14
2.1.1. Is Article 107(3)(c) TFEU Applicable? .....	15
2.1.2. Is Promoting Nuclear Power an Objective of Common Interest? .....	15
2.1.3. Is Finding a ‘Market Failure’ Necessary? .....	15
2.1.4. Was Public Intervention Necessary in the Particular Case? .....	16
2.1.5. Determination of the Aid .....	16
2.1.6. Operating Aid or Investment Aid? .....	17
2.2. The <i>Tempus</i> Case .....	18
2.3. T-339/16 – <i>Paris and Others v Commission</i> .....	19
2.4. ACER Series of Cases: T-146/17 – <i>Mondi</i> and T-123/17 – <i>Exaa</i> ...	21
2.5. The <i>OPAL</i> Saga .....	22
2.6. C-305/17 – <i>FENS</i> .....	24
2.7. C-561/16 – <i>Saras Energia</i> .....	24
2.8. Expected Future Case Law .....	26
3. Selected Cases: Non-Energy .....	26
3.1. C-622/16 P – <i>Montessori v Commission</i> .....	26
3.2. C-284/16 – <i>Achmea</i> .....	27
4. Institutional Issues: Reform of the CJEU .....	28
5. Conclusion .....	30

PART I. NEWCOMERS IN THE ELECTRICITY MARKET:  
AGGREGATORS AND STORAGE

**Chapter II. Newcomers in the Belgian Electricity Market: Aggregators**

Thierry D’HOORE .....	35
1. Introduction .....	35
2. The Growing Place of Aggregation in EU Electricity Market	
Legislation. ....	36
2.1. The First Energy Package .....	37
2.2. The Second Energy Package .....	38
2.3. The Third Energy Package .....	40
2.4. The Clean Energy Package .....	42
3. Transposition of the EU Energy Packages into Belgian Law .....	43
3.1. General Observations .....	43
3.2. The Role of the TSO with Regard to Demand Response. ....	44
3.3. The Opening-Up of Ancillary Services to Demand Response ....	46
3.4. Transfer of Energy .....	51
4. Conclusion .....	56

**Chapter III. Aggregation of Distributed Energy Resources in the United States: Current Uses and Potential for More Widespread Deployment**

Joel B. EISEN .....	57
1. Introduction .....	57
2. Aggregation of DERs in the U.S. Electric Power Sector .....	60
2.1. Potential for Aggregated DERs in the United States .....	60
2.2. Forms and Potential Benefits of Aggregation .....	62
2.3. The U.S. Wholesale Market System and Aggregation Programs ...	64
2.3.1. Wholesale Market Demand Response .....	65
2.3.2. Aggregation of DR in U.S. Wholesale Markets (Curtailment Service Providers) .....	66
2.3.3. Federal Policies Encouraging Wholesale Market Demand Response .....	68
3. Expanding Aggregation in Wholesale Markets .....	69
3.1. The California Experience .....	69
3.2. Subsequent Federal Initiatives .....	71
4. Distribution-Level Developments .....	73
5. Resolving State/Federal Jurisdictional Complications. ....	74
6. Conclusion .....	76



## Chapter IV. Potential Hurdles to the Regulation of Electricity Storage Development in the UK

Silke GOLDBERG and Jannis BILLE .....	79
1. Introduction .....	79
2. Storage – Some Background Information .....	80
2.1. The Need for Storage .....	80
2.2. Storage as a Concept .....	82
3. The Legal Framework in Great Britain .....	83
3.1. Regulatory Classification and Treatment of Storage as Generation .....	83
3.2. Prohibition of Generation (including Storage) for IDNOs and DNOs .....	85
3.3. Exceptions to the Prohibition .....	86
3.4. Licensing Requirements .....	87
3.5. Ownership and Operation Restrictions for TSOs and DNOs .....	88
3.6. Use of System Charges as a Barrier to Entry for Storage Units .....	89
3.7. Subsidies .....	92
3.8. The Role of Storage for the Balancing System .....	94
4. Hurdles to Investment and Financing Storage Facilities .....	95
4.1. Obtaining Planning Consent for Storage Facilities .....	95
4.2. Financing Investment in Storage .....	97
5. Conclusion and Outlook .....	98

## Chapter V. Power-to-Gas and Hydrogen for Energy Storage under EU Energy Law

Ruven FLEMING and Gijs KREEFT .....	101
1. Introduction .....	101
2. Power-to-Gas Technology and Applications .....	104
3. Renewable Energy, Hydrogen and the Law .....	105
3.1. Definition of Renewable Energy .....	105
3.2. The Guarantees of Origin Scheme .....	106
4. The Classification of Power-to-Gas and Hydrogen Storage .....	107
4.1. Storage through Power-to-Gas under Electricity Legislation .....	107
4.2. Power-to-Gas under EU Gas Legislation .....	109
4.2.1. Applicability of EU Natural Gas Legislation to Hydrogen .....	110
4.2.2. Classification of Power-to-Gas under EU Gas Legislation .....	111
4.3. Unbundling and Electricity Storage .....	114

5.	Energy Storage through Hydrogen Admixing to the Natural Gas Grid . . . . .	118
5.1.	Technical and Safety Issues of Admixing Hydrogen . . . . .	118
5.2.	Safety and Technical Conditions for Injection and Transportation of Hydrogen. . . . .	119
5.3.	Determination of National Hydrogen Limits . . . . .	121
5.4.	Access to the System for Hydrogen as Renewable Gas . . . . .	122
6.	Conclusion . . . . .	123

PART II. HYDROPOWER CONCESSIONS IN THE EU: A NEED FOR LIBERALISATION OR PRIVATISATION?

**Chapter VI. EU Law and Norwegian Hydropower Legislation:**

**A Challenging Interface**

	Knut F. KROEPELIEN . . . . .	127
1.	Introduction . . . . .	127
2.	Overview of Norwegian Hydropower Legislation . . . . .	129
2.1.	The Norwegian Hydropower System. . . . .	129
2.2.	Act on Rights to Waterfalls. . . . .	132
2.3.	Act on Regulation of Watercourses . . . . .	132
2.4.	Act on Water Resources . . . . .	133
2.5.	Act on Energy. . . . .	133
2.6.	Other Relevant Legislation . . . . .	134
3.	EFTA Court Case E-2/06 on Public Ownership. . . . .	135
3.1.	Case Background. . . . .	135
3.2.	Scope of the EEA Agreement Concerning Management of Natural Resources . . . . .	136
3.3.	Property Ownership and Restrictions on the EU Rights . . . . .	137
3.4.	Proportionality. . . . .	138
3.5.	Decision and Follow-Up . . . . .	140
4.	ESA Cases on Environmental Restrictions. . . . .	143
4.1.	Background . . . . .	143
4.2.	National Legal Measures to Achieve Environmental Targets . . . . .	145
4.3.	Use of Exemptions and Aggregated Assessments . . . . .	147
4.4.	Next Steps and Comments . . . . .	148
5.	Conclusions . . . . .	149

**Chapter VII. The Legal Regime of Hydroelectric Licences in France**

	Bernard KIEFFER . . . . .	153
1.	Introduction . . . . .	153
2.	The Legal Framework for French Hydroelectricity . . . . .	154

3. Evolution of the General Legal Framework . . . . .	155
4. The Legal Regime of the Hydroelectric Licence . . . . .	157
5. Competitive Tendering for Hydroelectric Licences . . . . .	160
6. Conclusion . . . . .	163

### Chapter VIII. Hydropower Concessions in Italy

Filippo DONATI . . . . .	165
1. Introduction . . . . .	165
2. Evolution of Italian Legislation on the Duration of Concessions . . . . .	165
2.1. Period of State Monopoly . . . . .	165
2.2. Introduction of Competition . . . . .	166
3. The Infringement Procedure . . . . .	168
4. Consistency of the Italian Concessions Regime with EU Competition Principles . . . . .	170
5. Concluding Remarks . . . . .	172

### Chapter IX. Hydroelectric Concessions: The Portuguese Legal Framework

Lourenço VILHENA DE FREITAS and Inês DE ABREU RÉGIO . . . . .	173
1. Introduction . . . . .	173
2. From the Early Days to the Monopoly of EDP . . . . .	173
3. Liberalisation of the Electricity Market . . . . .	176
4. Early Termination of CAEs and the Respective Compensatory Mechanism (CMEC) . . . . .	178
4.1. Background for the Reform . . . . .	178
4.2. The CMEC under Decree-Law No. 240/2004 . . . . .	179
4.2.1. Early Termination of CAEs and Compensatory Measures . . . . .	179
4.2.2. Calculation of the Compensatory Amounts and Adjustments . . . . .	180
4.2.2.1. The Impact of CMEC in the UGS Tariff . . . . .	180
4.2.2.2. Invoiced and Collection Operations . . . . .	181
4.2.2.3. CMEC Revision Mechanism . . . . .	182
4.2.3. Subsequent Developments . . . . .	182
5. The Current Legal Framework of Hydroelectric Concessions . . . . .	183
6. Direct Capacity Payment Mechanisms . . . . .	186
6.1. Background to the Choice of Capacity Mechanism in Portugal . . . . .	186
6.2. Requirements for the Granting of Incentives . . . . .	187
6.3. Calculating the Minimum Coefficient of Availability . . . . .	188
6.4. The Method of Calculation, Payment and Supervision of Capacity Payments . . . . .	189

7. Other Incentives . . . . .	190
7.1. National Program of Dams with High Hydroelectric Potential . . . . .	190
7.2. Mini-Hydroelectric Power Plants . . . . .	191
8. Conclusion . . . . .	193

PART III. INVESTMENTS AND DISINVESTMENTS IN  
THE ENERGY SECTOR

**Chapter X. The EU Approach to the Regulation of Guarantees of Origin**

Dirk VAN EVERCOOREN . . . . .	197
1. Introduction . . . . .	197
2. Electricity is Unlike Any Other Product . . . . .	199
3. The History of the Guarantee of Origin . . . . .	201
4. The Regulation of Electricity Disclosure Information . . . . .	204
4.1. The Purpose of Consumer-Empowering Information . . . . .	204
4.2. Harmonisation of National Practices . . . . .	206
4.3. The Need for a Harmonised Disclosure System across Europe . . . . .	207
5. Guarantees of Origin in the Clean Energy Package . . . . .	208
5.1. Strengthening of the Guarantee of Origin . . . . .	208
5.2. Remaining Concerns . . . . .	209
5.3. Compliance with EN16325 Standard . . . . .	211
5.3.1. Inflexibility . . . . .	211
5.3.2. Scope of EN16325 . . . . .	211
5.3.3. Compatibility with the EECS . . . . .	212
5.3.4. Extending to Other Energy Carriers: Hydrogen, Biomethane . . . . .	212
5.4. GO Auctioning . . . . .	213
6. Criticism of Guarantees of Origin . . . . .	213
6.1. The Impact of the Guarantee of Origin System . . . . .	213
6.2. Market Imbalance . . . . .	215
6.3. Demand for Green Power Grows with GOs . . . . .	216
6.4. Labels or Independent Criteria Schemes . . . . .	217
7. Conclusion . . . . .	217

**Chapter XI. The Screening of Foreign Direct Investments into the  
European Union: Regulation 2019/452 and its Implications  
for Energy Investments**

Cees VERBURG . . . . .	219
1. Introduction . . . . .	219
2. FDI and the European Energy Sector . . . . .	223
2.1. Restrictions at the EU Level . . . . .	223
2.2. Restrictions at the Member State Level . . . . .	225

3. Regulation 2019/452 – An Overview . . . . .	228
4. Compatibility with the EU’s Commitments under Trade and Investment Agreements . . . . .	232
4.1. Introduction . . . . .	232
4.2. EU–Canada CETA . . . . .	233
4.2.1. Market Access and Non-Discrimination . . . . .	233
4.2.2. Non-Conforming Measures and the Standstill Clause . . . . .	234
4.2.3. Relevant Exceptions Concerning ‘Security and Public Order’ . . . . .	236
4.2.3.1. The General Exceptions: Article 28.3 CETA . . . . .	237
4.2.3.2. National Security Exception: Article 28.6 CETA . . . . .	241
5. Conclusion . . . . .	242

**Chapter XII. Closure of Nuclear Power Plants in Germany, Sweden  
and France: Different Strategies for Different Results**

Romain MAUGER . . . . .	245
1. Introduction . . . . .	245
2. Strategies for Planning Nuclear Reactors Shutdown . . . . .	246
2.1. Germany: A Self-Unfolding, Long-Term Political Agreement become Law . . . . .	246
2.2. Sweden: A Long-Term Target become Law but Requiring Political Action . . . . .	248
2.3. France: A Changing and Uncertain Target without Adapted Legal Tools . . . . .	249
3. Organisational and Financial Consequences of these Strategies . . . . .	253
3.1. Germany: The Cost of Sudden Policy Changes . . . . .	253
3.2. Sweden: Fiscal Tools and Market Mechanisms are Efficient but Out-of-Control . . . . .	256
3.3. France: A Voluntarily Powerless Government Forced to Negotiate Costly Compensation . . . . .	257
4. Conclusion . . . . .	259

**Chapter XIII. Phasing Out Coal-Fired Power Plants in the European Union:  
Examples from the Netherlands and Germany**

Lolke BRAAKSMA and Ruven FLEMING . . . . .	261
1. Introduction . . . . .	261
2. Phasing Out Coal-Fired Power Plants from a European Union Perspective . . . . .	262
2.1. Introduction . . . . .	262
2.2. The Primary Law Competence of the European Union . . . . .	263

2.3.	The Legal Framework in the European Union . . . . .	265
2.4.	A Need for Financial Compensation? . . . . .	268
3.	The Example of the Netherlands . . . . .	269
3.1.	Introduction . . . . .	269
3.2.	Background . . . . .	270
3.3.	Phasing Out Coal-Fired Power Plants: Societal and Legal Debate . . . . .	272
3.4.	The Bill “Prohibiting the Use of Coal in Electricity Production” . . . . .	274
3.5.	Conclusion on the Netherlands . . . . .	276
4.	The Example of Germany . . . . .	277
4.1.	Introduction . . . . .	277
4.2.	Background . . . . .	278
4.3.	Societal Debate . . . . .	278
4.4.	Legal Debate . . . . .	279
4.4.1.	Final End Date 2038 . . . . .	281
4.4.2.	Gigawatts Count, not Power Plants . . . . .	281
4.4.3.	Electricity Price shall be Stabilised. . . . .	282
4.4.4.	Structural Transformation . . . . .	283
4.4.5.	Avoid Expropriation Claims . . . . .	283
4.5.	Conclusion on Germany . . . . .	283
5.	Conclusion . . . . .	284

PART IV. OFFSHORE DECOMMISSIONING IN THE NORTH SEA

**Chapter XIV. The Regulation of Decommissioning in the Netherlands:  
From Removal to Re-Use**

	Dinand DRANKIER and Martha M. ROGGENKAMP . . . . .	289
1.	Introduction . . . . .	289
2.	Decommissioning Offshore . . . . .	290
2.1.	The Role of International Law . . . . .	290
2.2.	Removal Obligations . . . . .	293
2.2.1.	Law of the Sea . . . . .	293
2.2.2.	IMO Guidelines . . . . .	293
2.2.3.	Installations and Structures . . . . .	294
2.3.	Dumping . . . . .	295
2.3.1.	London Convention . . . . .	295
2.3.2.	OSPAR Convention . . . . .	295
2.4.	The North Sea . . . . .	297
3.	Offshore Decommissioning in the Netherlands . . . . .	297
3.1.	Introduction . . . . .	297

3.2.	Exploration and Production of Hydrocarbons . . . . .	298
3.2.1.	Licensing Regime . . . . .	298
3.2.2.	State Participation . . . . .	299
3.2.3.	Mining Installations . . . . .	300
3.3.	Decommissioning . . . . .	300
3.3.1.	Mining Installations . . . . .	300
3.3.2.	Decommissioning Pipelines and Cables . . . . .	302
3.4.	Current Practice . . . . .	303
4.	Re-Use as a New Paradigm . . . . .	303
4.1.	Introduction . . . . .	303
4.2.	Legal Issues . . . . .	304
4.3.	A New Approach Required? . . . . .	306
5.	Conclusions . . . . .	306

## **Chapter XV. Decommissioning of Offshore Installations upon the UK Continental Shelf**

	Greg GORDON and John PATERSON . . . . .	307
1.	Introduction . . . . .	307
2.	International Law . . . . .	309
2.1.	The Law of the Sea . . . . .	309
2.2.	OSPAR: The Position in the North East Atlantic Area . . . . .	312
2.2.1.	OSPAR 1992 . . . . .	312
2.2.2.	OSPAR Decision 98/3 . . . . .	314
2.3.	The Prospects for Artificial Reefs upon the UKCS . . . . .	315
2.4.	Conclusion on International Law . . . . .	317
3.	Domestic Law and Practice . . . . .	317
3.1.	Regulatory Responsibility . . . . .	317
3.2.	The UK's Statutory Framework . . . . .	318
4.	Commercial and Contractual Issues . . . . .	321
4.1.	Joint Operating Agreements and Decommissioning Security Agreements . . . . .	321
4.2.	The LOGIC Decommissioning Contract . . . . .	324
5.	Conclusion . . . . .	327

## **Chapter XVI. Regulation of Infrastructure Decommissioning in the Danish Offshore Oil and Gas Sector: The Final Chapter in the Danish Oil Adventure**

	Clara Greve BRETT . . . . .	329
1.	Introduction . . . . .	329
2.	Oil and Gas Exploration and Production in Denmark . . . . .	331
2.1.	Regulatory Authorities . . . . .	331

2.2.	The Sole Concession .....	331
2.3.	Licensing Regime.....	332
2.4.	Guidelines.....	334
3.	Legal Framework Governing Decommissioning.....	334
3.1.	International Law.....	334
3.2.	National Law .....	335
3.2.1.	Danish Subsoil Act.....	335
3.2.2.	Danish Offshore Safety Act.....	336
3.2.3.	Danish Act on the Marine Environment.....	337
3.3.	Decommissioning Plan.....	337
4.	Liability and Decommissioning.....	340
4.1.	Parties Liable for Carrying Out the Decommissioning.....	340
4.2.	Liability for Accidents During Decommissioning.....	341
4.3.	Security for Decommissioning Liabilities.....	342
4.4.	Secondary Financial Liability for Decommissioning.....	344
4.5.	Duration of Liability .....	345
5.	Decommissioning of Pipelines.....	346
5.1.	International View on Pipelines.....	346
5.2.	Danish View on Pipelines.....	347
5.2.1.	Pipelines and Terminology in Danish Legislation .....	347
5.2.2.	Regulation of Pipelines in Denmark .....	348
6.	Conclusion .....	349

## Chapter XVII. Decommissioning Practice in Norway

	Dag Erlend HENRIKSEN.....	351
1.	Introduction.....	351
2.	Decommissioning on the NCS: Brief Historic and Factual Background .....	351
3.	Norwegian Decommissioning Law .....	353
3.1.	Introduction.....	353
3.2.	Relevant International Legal Instruments.....	353
3.3.	Domestic Legislation.....	354
3.3.1.	Introduction .....	354
3.3.2.	Overview of the Relevant Provisions of the Petroleum Act.....	355
3.3.3.	The Decommissioning Plan .....	356
3.3.4.	The Decision on Disposal .....	357
3.3.5.	The Obligation to Implement the Disposal Decision.....	358
3.3.6.	Liability of Assignors – Secondary Liability .....	360
3.3.6.1.	Background .....	360
3.3.6.2.	Details of the Secondary Liability .....	360
3.3.6.3.	Licence Transactions v Share Transactions .....	362



3.3.6.4.	Tax Issues Relating to Secondary Liability Settlement in Share Transactions. . . . .	362
3.3.6.5.	A Clean Exit is not Possible . . . . .	362
3.3.6.6.	Decommissioning Security Agreements. . . . .	363
3.4.	The Contractual Regime between Licensees. . . . .	363
4.	The Future of NCS Decommissioning. . . . .	364

PART V. CCS AS A CLIMATE TOOL: NORTH SEA PRACTICE

**Chapter XVIII. CCS Legislation in Norway: The EU CCS Directive and its Implementation into Norwegian Law**

	Sofie FOGSTAD VOLD . . . . .	369
1.	Introduction . . . . .	369
2.	Background on Norwegian CCS Policy. . . . .	369
2.1.	CCS and CCUS . . . . .	369
2.2.	On the Need for CCS . . . . .	370
2.3.	Status of CCS in Norway. . . . .	372
3.	The CCS Directive: A Descriptive Analysis . . . . .	375
3.1.	Preamble. . . . .	375
3.2.	Paragraphs . . . . .	377
4.	The Implementation Process in Norway and Overview of the Legislation. . . . .	380
4.1.	Implementation Technique. . . . .	380
4.2.	Resource Management Principles . . . . .	381
4.3.	Scope of Application . . . . .	382
4.4.	A Permitting System . . . . .	382
4.5.	Review of the Norwegian CCS Legislation. . . . .	383
4.6.	The New Storage Regulation. . . . .	383
4.7.	Changes to the Petroleum Regulation. . . . .	383
4.8.	Changes to the Pollution Regulation. . . . .	384
5.	Final Remarks . . . . .	385

**Chapter XIX. Developments in UK Carbon Capture and Storage**

	John PATERSON. . . . .	387
1.	Introduction . . . . .	387
2.	The Legislative and Regulatory Framework in the UK . . . . .	390
2.1.	Energy Act 2008. . . . .	390
2.2.	Regulatory Instruments . . . . .	391
2.2.1.	Licensing. . . . .	391
2.2.2.	Crown Lease . . . . .	392
2.3.	Transposition of EU Directive . . . . .	393

2.4.	Interaction between the Licence and the Crown Lease? . . . . .	395
2.5.	Transportation of CO <sub>2</sub> . . . . .	397
3.	Translating the Legislative Potential into Practical Projects . . . . .	397
4.	Latest Developments . . . . .	399
4.1.	From CCS to CCUS . . . . .	399
4.2.	The CCUS Action Plan . . . . .	400
4.3.	Transport and Storage Infrastructure . . . . .	401
4.4.	Enhanced Oil Recovery . . . . .	402
5.	Conclusions . . . . .	403

**Chapter XX. Carbon Capture and Storage in the Netherlands: A Long and Winding Process**

	Martha M. ROGGENKAMP . . . . .	405
1.	Introduction . . . . .	405
2.	Legal Framework . . . . .	407
2.1.	Introduction . . . . .	407
2.2.	Licensing Regime . . . . .	407
2.3.	Transport and Storage . . . . .	408
2.3.1.	The Mining Act . . . . .	408
2.3.2.	Offshore Transport and Storage: Some Specific Provisions under International Law . . . . .	410
2.3.3.	Re-Use of Offshore Reservoirs and Installations . . . . .	411
2.4.	Closure and Post-Closure . . . . .	412
3.	Developing CO <sub>2</sub> Storage Projects Offshore . . . . .	413
3.1.	First Demonstration Projects . . . . .	413
3.1.1.	The ‘Green Hydrogen’ Project . . . . .	413
3.1.2.	The ROAD Project . . . . .	414
3.2.	The Porthos Project . . . . .	414
4.	Conclusion . . . . .	416

**PART VI. FROM EU CLIMATE GOALS TO NATIONAL CLIMATE LAWS**

**Chapter XXI. A Stocktake of Legal Research on the United Kingdom’s Climate Change Act: Present Understandings, Future Opportunities**

	Thomas L. MUINZER and Gavin Mcleod LITTLE . . . . .	421
1.	Introduction . . . . .	421
2.	Background to the Adoption of the Climate Change Act . . . . .	422
3.	Main Features of the Climate Change Act . . . . .	423
3.1.	Structure of the CCA . . . . .	423
3.2.	Scope and Targets . . . . .	424
3.3.	The Carbon Budget System . . . . .	425

3.4.	The Future of the System. . . . .	427
3.5.	The Institutional Framework and its Future. . . . .	428
4.	Evaluating the Legal Research Base for the Climate Change Act. . . . .	431
4.1.	The CCA's Interaction with the UK's Multilevel Governance System. . . . .	432
4.2.	Compliance Regime, Enforceability and Judicial Review. . . . .	434
4.3.	Accountability. . . . .	436
4.4.	The Future for Research on the CCA: Towards an Interdisciplinary Research Agenda. . . . .	437
5.	Concluding Remarks. . . . .	441

## Chapter XXII. The Swedish Climate Policy Framework and the Climate Act

	Kristina FORSBÄCKA . . . . .	443
1.	Introduction. . . . .	443
2.	General Background. . . . .	444
2.1.	Swedish Greenhouse Gas Emissions and Priority Areas. . . . .	444
2.2.	Political Consensus on Climate Policy Priorities. . . . .	445
3.	New Climate Targets. . . . .	446
3.1.	A Long-Term Zero Net Emissions Target by 2045. . . . .	447
3.2.	Interim Emissions Targets. . . . .	447
4.	The Climate Act. . . . .	448
4.1.	Background to the Climate Act. . . . .	448
4.2.	Regulatory/Compliance Approach Pursued by the Climate Act. . . . .	449
4.3.	Detailed Analysis of the Climate Act Provisions. . . . .	451
4.3.1.	The Content and Purpose of the Climate Act. . . . .	451
4.3.1.1.	Section 1. . . . .	451
4.3.1.2.	Section 2. . . . .	451
4.3.2.	A Long-Term Target. . . . .	452
4.3.2.1.	Section 3. . . . .	452
4.3.3.	Planning, Monitoring and Reporting. . . . .	452
4.3.3.1.	Section 4. . . . .	453
4.3.3.2.	Section 5. . . . .	453
5.	The Climate Policy Council. . . . .	454
6.	Concluding Remarks. . . . .	455

## Chapter XXIII. Climate Litigation, Climate Act and Climate Agreement in the Netherlands

	Gerrit VAN DER VEEN and Kars DE GRAAF . . . . .	457
1.	Introduction. . . . .	457
2.	The <i>Urgenda</i> Case. . . . .	458
2.1.	District Court Judgment. . . . .	458

2.2.	Court of Appeal Ruling. . . . .	459
2.3.	Expectations about the Upcoming Supreme Court Decision. . . . .	461
3.	The Dutch Climate Act . . . . .	463
3.1.	Targets of the Climate Act . . . . .	464
3.2.	Instruments Provided by the Climate Act. . . . .	464
3.3.	Enforceability of the Climate Act. . . . .	466
4.	The Climate Agreement . . . . .	467
5.	Conclusion . . . . .	469

## LIST OF ABBREVIATIONS

ACER	Agency for the Cooperation of Energy Regulators
AIB	Association of Issuing Bodies
APG	Austrian Power Grid AG
ARH	Hydrographic district administrations
ARP	Access Responsible Party
ASC	Adaptation Sub-Committee (United Kingdom)
ASN	Nuclear safety authority (France)
BEIS	Department for Business, Energy and Industrial Strategy
BMUs	Balancing Mechanism Units
BPEO	Best Practicable Environmental Option
BRP	Balance Responsible Party
BSC	Balancing and Settlement Code
BSUoS	Balancing Services Use of System
BVerfG	Federal Constitutional Court (Bundesverfassungsgericht)
CAE	Energy Acquisition Agreements (Contratos de Aquisição de Energia)
CAISO	California ISO
CCA	Climate Change Act (United Kingdom)
CCC	Committee on Climate Change (United Kingdom)
CCS	UK Climate Change Act 2008
CCL	Climate Change Levy
CCS	Carbon capture and storage
CCUS	Carbon capture use and storage
CEER	Council of European Energy Regulators
CEN	European Committee for standardization
CETA	EU-Canada Comprehensive Economic and Trade Agreement
CfD	Contracts for Difference
CJEU	Court of Justice of the European Union
CMEC	Costs of Maintenance of the Contractual Equilibrium (Compensation Mechanism)
CO <sub>2</sub>	Carbon dioxide
ConEd	Consolidated Edison
CREG	Commission for Electricity and Gas Regulation (Belgium)
CRPPA	Corporate Renewable Power Purchasing Agreement
CS	Continental Shelf
CSP	Curtailement service provider

CUSC	Connection and Use of System Code
DCC	Dutch Civil Code
DCO	Development consent order
DEA	Danish Energy Agency
DERs	Distributed energy resources
DERP	Distributed energy resource providers
DGEG	Directorate General of Energy and Geology (Portugal)
DKK	Danish Crown
DNO	Distribution network owners
DPO	Plan for development and operation
DR	Demand response
DSA	Decommissioning Security Agreement
DSO	Distribution system operator
DSR	Demand side response
DUC	Danish Underground Consortium
DUoS	Distribution Use of System
EAC	Energy Attribute Certificate
EBN	BV Energie Beheer Nederland
ECT	Energy Charter Treaty
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EDF	Electricité de France
EDP	Energias de Portugal (formerly Electricidade de Portugal)
EEA	European Economic Area
EECS	European Energy Certificate System
EEZ	Exclusive Economic Zone
EFR	Enhanced Frequency Response
EFTA	European Free Trade Agreement
E&P	Exploration and Production
EHR	Enhanced Hydrocarbons Recovery
EOR	Enhanced Oil Recovery
EPA	Environmental Protection Agency (Sweden)
EPR	European pressurised reactor
ESA	EFTA Surveillance Authority
ESDER	Energy Storage and Distributed Energy Resource
ESR	EU Effort Sharing Regulation
ETTF	Energy Transition Task Force
EU	European Union
EU ETS	EU Emission Trading Scheme
EV	Electric vehicles
Exaa	Electricity Exchange Austria
FDI	Foreign Direct Investment

FDM	Flexibility Data Manager
FEED	Front and end engineering design
FERC	U.S. Federal Energy Regulatory Commission
FFR	Firm Frequency Response
FGC	Federal Grid Code (Belgium)
FIT	Feed in Tariffs
FOV	Fortum Oslo Varme
FPA	Federal Power Act
FPSO	Floating production storage and offloading vessels
FRIFO	Union of Outdoor Recreation Organizations
FSP	Flexibility service providers
FSR	Florence School of Regulation
FTA	Free trade agreement
GATT	General Agreement on Tariffs and Trade
GBS	Gravity base storage
GHG	Greenhouse gas
GO	Guarantee of Origin
GW	Gigawatt
HEC	High Efficiency Cogeneration
HSE	Health, Safety and Environment
ICH	Load interruptibility mechanism
ICSID	International Centre for Settlement of Investment Disputes
IDNO	Independent distribution network operators
IE	Industrial Emissions
IEA	International Energy Agency
IMF	International Monetary Fund
IMO	International Maritime Organization
INAG	National Water Institute (Instituto Nacional da Água)
INT NC	Network Code on interoperability and data exchange rules
IPCC	Intergovernmental Panel on Climate Change
ISCC	International Sustainability and Carbon Certification
ISO	independent system operators
JDA	Joint Development Agreement
JOA	Joint Operating Agreement
LCA	Life Cycle Assessment
LNG	Liquefied natural gas
LVK	Norwegian Association of Municipalities hosting Hydropower Plants
MEP	Multi-annual energy plan (Programmation Pluriannuelle de l'Énergie)
MFN	Most-favoured nation treatment
MIBEL	Iberian Electricity Market
MP	Member of Parliament

MPE	Ministry of Petroleum and Energy
MS	Member State
MW	Megawatt
NCS	Norwegian Continental Shelf
NECP	National Energy and Climate Plan
NGET	National Grid Electricity Transmission plc
NGO	Non-governmental organisation
NOPR	Notice of Proposed Rulemaking
NOVI	National Environmental Strategy (Nationale Omgevingsvisie)
NPS	National policy statement
NSIP	Nationally significant infrastructure project
NT	National treatment
NTE	Not-to-Exceed values
NVE	Norwegian Energy Directorate
NWA	Non-wires alternatives
OECD	Organisation for Economic Cooperation and Development
OGA	Oil and Gas Authority
OSPAR	Convention for the Protection of the Marine Environment of the North-East Atlantic
PBL	Netherlands Environmental Assessment Agency (Planbureau voor de Leefomgeving)
PDR	Proxy Demand Resource
PNBEPH	National Program of High Hydroelectric Energetic Potential Power Plants (Programa Nacional de Barragens de Elevado Potencial Hidroeléctrico)
Porthos	Port of Rotterdam CO <sub>2</sub> Transport Hub & Offshore Storage
PTE	Panel of technical experts
RBMP	River Basin Management Plan
RED	Renewable Energy Directive
REN	National Electricity Grid (Portugal)
RES-E	Renewable sources
REV	Reforming the Energy Vision
RNT	National Transmission Grid (Rede Nacional de Transporte)
RO	Renewables Obligation
RTO	Regional transmission organisations
SABIMA	Norwegian Biodiversity Network
SEN	Sistema Eléctrico Nacional
SEP	Public Electricity System (Portugal)
SLC	Standard Licence Condition
SEN	National Electricity System (Portugal)
SRN	Liaison Committee of Nature Conservation
SWD	Staff Working Document
TCM	Technology Centre Mongstad



TCR	Targeted charging review
TNUoS	Transmission Network Use of System
TFEU	Treaty on the Functioning of the European Union
TPA	Third party access
TSO	Transmission system operator
UGS Tariff	Global Use of System Tariff
UKCS	United Kingdom continental shelf
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNFCCC	UN Framework Convention on Climate Change
WFD	Water Framework Directive
WTO	World Trade Organization



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