

Select Committee on the European Union

Energy and Environment Sub-Committee

Corrected oral evidence Brexit: energy security

Wednesday 18 October 2017

10.30 am

Watch the meeting

Members present: Lord Teverson (The Chairman); Viscount Hanworth; Lord Krebs; Duke of Montrose; Lord Rooker; Lord Selkirk of Douglas; Baroness Sheehan; Earl of Stair; Baroness Wilcox; Lord Young of Norwood Green.

Evidence Session No. 3

Heard in Public

Questions 44 - 53

Witness

[I](#): His Excellency Jean-Christophe Füg, Ambassador, Head of International Energy Affairs at the Swiss Federal Office of Energy (SFOE), Department of the Environment, Transport, Energy and Communications.

Examination of Witness

HE Jean-Christophe Füeg.

Q44 **The Chairman:** Your Excellency, welcome to our meeting. I remind myself and members of the Committee to look at the camera when we are speaking to you. Thank you very much indeed for joining our evidence session on energy security. I will just make one or two housekeeping points. This is a public evidence session. We are being recorded and broadcast. We are taking a transcript of the session, which will be presented to you. If there are any errors in it, please let us know and they will be corrected. I remind Members that if they have any interests that are relevant to this inquiry they should declare them before they speak.

This is our inquiry into Brexit and energy security. We are also looking at the Euratom aspects of that, as well as the normal and standard forms of energy generation. This is one of our last evidence sessions, so we are very grateful to you for participating.

You have a presentation that you have kindly sent us a copy of, which you would like to go through with us as an introduction. Perhaps, for members of the public who are interested in this session, you could also give us a bit of background about yourself.

HE Jean-Christophe Füeg: Certainly. It is a pleasure to appear before your Committee. As you are well aware—it is the reason why Switzerland has been invited to testify—we are not, of course, a Member of the EU and we have a very special relationship in energy matters with the EU. I head the international affairs unit of the Swiss Federal Office of Energy. The Federal Office of Energy is part of a larger ministry that is roughly equivalent to DECC in the UK. It encompasses the environment, energy, transport and communications. As you may know, the Swiss Government are very lean: we have only seven departments, which is why under each department we tend to have many offices. I head international affairs and I have been leading our negotiations on an energy agreement with the EU for a couple of years.

The Chairman: Would you like to take us through your presentation?

HE Jean-Christophe Füeg: Certainly. I will start with the second slide, with the map and the blue and green boxes, which are just basic facts about Switzerland and the EU. The gist of the green box is that Switzerland is extremely interconnected with the EU, with our neighbours. More electricity flows through our borders—75 terawatt hours; please tell me if I am being too technical—than we produce and consume in the country. That amount of cross-border electricity corresponds to about 12% of cross-border physical flows across continental Europe. In terms of interconnection capacity, it is about 20% of all cross-border lines in Europe.

This interconnection started many years ago. Back in 1958, Switzerland was the first country to interconnect with Germany and France. That was

the historic beginning of the electricity trade in Europe. At the same time, Swissgrid, which is our transmission system operator—the equivalent of National Grid in the UK—was a founding member of the precursor organisation of today's ENTSO-E, which is the association of European TSOs, and it participates quite intensively in a number of endeavours that are meant to facilitate electricity trade and ensure security. One, which I mention in the green box, is TSC—Transmission System Operator Security Cooperation—which was established in 2008. Most Central and Eastern European TSOs deliver services in order to ensure co-ordination and security of the grid. In Western Europe there is another organisation, Coreso, which mirrors TSC and which National Grid is a member of.

When it comes to natural gas, Switzerland is a major north-south gas corridor and a major entry point for gas supplies to Italy. That transit pipeline has a capacity of about 18 billion cubic metres per year, only 3 billion of which are destined for the Swiss market and the rest is destined for Italy. That pipeline is being refurbished right now to make it capable of delivering reverse flow as of next year.

The next slide illustrates how intensive and dynamic our cross-border trade is. You have four graphs, from left to right, of the typical picture in spring, summer, autumn and winter. You will notice that Switzerland is a heavy exporter—it is the top segment in orange—and we export a lot of surplus hydroelectricity, mostly in the summer and autumn, after the snowmelt. In the winter, we are a net electricity importer. We do not have enough energy to get us through the winter. Those are the hashed lines that you see, particularly in winter and early spring, when the reservoirs tend to empty. At the same time you will see in green a particularity of Switzerland, which is pump storage. We have huge pump storage capacity, which allows us to pump water up to the reservoirs, especially when European prices are low, typically at night, or when there is a large injection of renewables—wind or solar—in Europe. That helps to integrate renewables, and we see Switzerland playing an increasing role in helping to integrate volatile renewables elsewhere in Europe. This is a trait that keeps on increasing. You will see that demand tends to be higher in winter than in summer.

In a nutshell, this dynamic exchange was one, if not the main, driver for us to engage in an electricity agreement, or to start negotiations about an agreement, because we need to be embedded in the internal market. It is already happening today, but I will come on to speak about the evolution that makes this integration more difficult as time passes.

You will also notice that within the individual days there are a lot of ups and downs—peaks and troughs. This is another trait that keeps increasing as volatile renewables become more preponderant. Swiss reservoirs can deliver, at very short notice, so-called ancillary services, which help to integrate volatile renewables, and this can change by the hour, or even by the quarter-hour. This is one of the key advantages of pump storage and reservoir hydro, which can be opened or withdrawn

from the market depending on price signals and the necessity of grid stabilisation.

On the next slide is the timeline of our negotiations with the EU. We started negotiations on an electricity agreement 10 years ago. You might think that this is a very long period. The length of that period is partly due to the fact that in 2010 we had to adapt our negotiation mandates, because in the meantime the EU had introduced its Third Energy Package. Since most of our negotiation is about adopting the EU acquis in terms of electricity, we had to readjust our negotiation mandate.

The big stumbling block, if I may say so, came in 2012. At that stage, the EU reinforced its position that any new market access agreement—and I stress market access agreement—would hinge on the existence of an institutional framework agreement. From then on, our electricity agreement was inexorably tied to the institutional agreement. From that day on it became sort of a test ground or a pilot for an institutional agreement, because many of the key issues in the institutional agreement—such as dispute resolution, the adoption of the future acquis, and state aid surveillance or surveillance of the agreement as such—are intrinsically part of that institutional agreement. That is why the negotiation became so arduous: because we started negotiating an institutional agreement, and many of the more theoretical or abstract aspects of that institutional agreement had to be exercised through the electricity agreement.

You may know that in February 2014 we had the popular vote on mass immigration, which basically froze all negotiations until April last¹ year, when we managed to solve the issue of mass immigration. Since then, we have resumed negotiations on the institutional agreement and electricity agreement.

The last slide is specifically about the electricity agreement. One may sum up the situation that on technical issues—that is, adoption of the electricity acquis—we see light at the end of the tunnel. There are still a few issues to be resolved. Some of them are very specific to Switzerland: we have contracts with French nuclear plants; we still have to agree a target on the share of renewable energy; we still have to agree on certain state aids that we have in Switzerland, which still need to be acquiesced by the EU. But, in summary, technically we feel that we see the light at the end of the tunnel.

The big issue for the electricity agreement—this, again, is a very Swiss specificity—is the fact that right now only half our electricity market is opened. Only large consumers are eligible. Small consumers—households—are still captive. We have a particular situation. Our electricity market and our electricity companies are in a very difficult situation because of very depressed wholesale prices in Europe. This means that very often they cannot compete against German prices, and the law allows them to charge full costs to captive customers. So there is

¹ The Witness subsequently clarified that he meant to say “..until April this year,..”

not much inclination among a large portion of our electricity companies to fully open the market and expose themselves to very depressed wholesale prices in Europe. At the same time, the idea of full market opening is not very popular. But this is a very specific Swiss issue.

What is happening during this interregnum—this legal void where we do not have an electricity agreement? Matters started to become more difficult, especially from August 2015, when the first Regulation about regulating cross-border electricity trade—the so-called Capacity Allocation and Congestion Management Regulation—entered into force. That Regulation has a clause, Article 1.4, which specifically targets Switzerland. It states that Switzerland is excluded from this cross-border trade—this new mechanism, which is called market coupling—as long as we do not adopt EU legislation on electricity and as long as we have no bilateral agreement with the EU. It is a clause that is specifically targeted at Switzerland. This means that Switzerland is excluded from market coupling. There are more network codes that have been enforced, which all have the same Swiss clause—with one exception, which I will speak about later.

The next step in the advancement of the internal electricity market is the so-called flow-based market coupling, whereby ENTSO-E and the TSOs calculate the methodology that allows you to model and track electricity flows in real time and to get remuneration from that. Because of that Swiss clause, we are excluded from market coupling. Switzerland is not admitted to the ENTSO-E working group, which prepares the methodology for this flow-based market coupling, and the result of all this is loop flows. These are unscheduled flows, which are due mostly to trade between our neighbours, but much of the trade cannot be handled physically between our neighbours and it flows through Switzerland in an unscheduled and non-remunerated way. It may endanger the security of the grid.

The last arrow on the slide is the Clean Energy Package. The EU acquis is not inert; it keeps on evolving. As the Clean Energy Package is being discussed in the EU Parliament, we are observing one trend by which some institutions that were previously not under the aegis of the EU are likely, according to current drafts, to become institutionalised: that is, they may move from being independent institutions to being under the remit of the EU and EU legislation. That poses the threat of Switzerland being excluded. Most prominent among them is the so-called Pentalateral Energy Forum, which is a grouping of Germany, France, Benelux and Austria. Switzerland is an observer there, which is a sort of test ground and precursor for market coupling. This is the most sophisticated trading platform where the acquis is being tested and implemented. We are participating in some of the technical work there, but we fear that as that Pentaforum might move under the EU remit, our participation may become more difficult.

The bottom line in this situation is that there have been analyses, including by ACER, the European Agency for the Cooperation of Energy

Regulators, which has estimated the loss at the Swiss border from suboptimal trading at around €120 million, which at the scale of an economy is of course negligible. Our assessment of the present situation is that the exclusion of Switzerland from market coupling is something of a handicap. But as more trading moves under EU legislation, we can see a trend whereby the present handicap will become a pain. We know that one day it will be a pain. We cannot tell you when it will be, but the trend is clear. That is basically in a nutshell where we stand today. Thank you.

Q45 The Chairman: Ambassador, that was very useful indeed. I was fairly relaxed about energy security and the electricity market until you gave that presentation. There are a number of areas that I am sure we will want to explore in our questions. It was extremely useful. Thank you for that.

I should explain that we have 10 Members here. Like most parliamentary committees, we are a balanced committee, with representatives from all the major political parties, as well as Cross-Benchers—the independent Peers. We will share out the questions between us.

I will start with the first question. Obviously, you will have answered some of it. What are your priorities and aims for the Swiss energy relationship with the EU? You have gone through that a fair bit and how you will feel more and more handicapped and disadvantaged, perhaps, as time goes on. Perhaps you would like to expand on that. I am particularly interested in how you generally find dealing with the European Union from a non-Member State point of view. What lessons in energy do you have for us from your own experience over the past few years and the 10 years of negotiation?

HE Jean-Christophe Füeg: Although for electricity our key interlocutor is DG Energy, we sense unequivocally that there is a Commission position. So there may be some instances where from an electricity viewpoint, the exclusion of Switzerland simply does not make sense. Anyone in the business will agree: the transmission system operators, the market players, even DG Energy, although it will not say it. Common sense would dictate that Switzerland should be a full participant in those mechanisms. The reality is that since electricity has been tied to the institutional agreement, there is no scope for movement.

There has been one instance in the recent past where there has been scope for movement, and that is the balancing. Balancing energy is absolutely necessary to help stabilise the network. The guidelines for that balancing of energy are still at the drafting stage. They have not been enacted yet. The final version is not known. With help from our neighbours—I should add that this is probably the only case where our neighbouring countries and neighbouring TSOs have supported us in Brussels—the Swiss clause in the balancing guideline has been watered down. Article 1.5 basically states the very same thing: it ties the participation of Switzerland to Switzerland adopting the electricity acquis and concluding an agreement with the EU, and ends by saying, “except if the exchange of balancing services with Switzerland are necessary for the

safe secure network operation of the Union electricity market". This is the only instance where the Commission has been willing to deviate from the overriding exclusion of Switzerland from the electricity market, absent an institutional agreement and an electricity agreement.

In a nutshell, to respond to your question, you have to have a very strong case that you as a country bring something to the internal electricity market that is indispensable to the functioning of the energy market. I have other examples, of network management, where our argumentation has not been accepted. For instance, when it comes to intraday trading, there are Swiss initiatives. Switzerland has been involved in intraday trading for a couple of years now. There is a project to move in accordance with the CACM Regulation. Here, Switzerland has not been successful in ensuring that we would be able to participate in market coupling. Really, the bottom line is that you have to have an absolutely unique circumstance that is quasi-vital—I do not want to overdramatise—or is seen as indispensable to the functioning of the internal market.

The Chairman: That answers my question absolutely. The examples are particularly useful to us, so thank you. Lord Selkirk will go through and add to some of the issues that you talked about in your presentation.

Q46 Lord Selkirk of Douglas: May I say first of all that I have enjoyed a great many visits to Switzerland over the years, not just to tourist centres such as the Sherlock Holmes Museum in Meiringen? It is impossible not to appreciate the tremendously strong protections that you have in place for the environment. To what extent is the Swiss energy system integrated with that of the EU? How much energy do you trade, and to what extent are legislation, network codes and trading platforms shared? What do you see are the benefits and disadvantages of that relationship? You have touched on much of that already, but for the sake of clarity perhaps you could give a response on that major issue.

HE Jean-Christophe Füg: Electricity-wise, as I said, more electricity is traded across our borders than we produce and consume internally. We have an interconnection rate of more than 100%. Although we are still a net electricity exporter over a year, we have very strong fluctuation between the seasons. In the winter, we are an electricity importer. We cannot survive the winter without importing electricity from our neighbours. Even if we were to empty our water reservoirs, we would not get through the winter. At the same time, we have this excess of energy in summer, when the snow melts, and we cannot absorb all this energy; hence, we rely on export markets to sell that energy.

A relatively recent phenomenon, with the growing integration of renewables in Europe, is the fact that with ancillary services, or very short-term intraday trading—let us say 15 minutes—the prices fluctuate much more and there is much more opportunity for Swiss enterprises to deliver into the intraday market and to deliver ancillary services. The volumes of electricity traded may be less, but the value of that electricity is much higher. This volatility, as I have shown on the graph, means that

from quarter-hour to quarter-hour the flows may change depending on the electricity patterns and prices. This is absolutely essential on the commercial side.

Of course, if we were to become an island electricity-wise, for instance with regard to the ancillary services—the so-called n-1, the fact that you have to provide for the failure of your single largest unit, which is a big nuclear plant in Switzerland—that would of course drive up the cost of electricity in Switzerland. All these things are arguments for us to be in the electricity market. We have been in the electricity market for many decades and we see a tendency. If I may use a metaphor, we have been sitting at the table with our European neighbours electricity-wise and we have felt in some instances that someone has started to saw at our chair legs, and there is even the risks in some cases that the chair may be withdrawn from under us.

You asked about trading platforms, networks and so on. As a last remark, I will comment on an earlier intervention by the Chairman. I do not wish to overdramatise, but there is an apprehension among the Swiss public that exclusion from market coupling would mean shutting down the lines. This is absolutely not the case. Without market coupling, the trade between Switzerland and the rest of Europe is handled in a suboptimal way: that is, there is more congestion, the auctioning is more expensive, and there is a welfare loss—the Swiss traders are handicapped vis-à-vis their European competitors. But one should not fear that the lights will go out or that the cross-border lines will be severed any time soon—or at any time.

Baroness Sheehan: I refer to page 5 of your presentation and the third bullet point, “Absent Electricity Agreement”. The first arrow says, “Switzerland barred from market coupling since 2015”, which is linked to a “specific clause in EU Regulation”. You think that that situation arose through the lack of a bilateral agreement. Is that a euphemism for saying that it is a repercussion of the immigration referendum in 2014? It was only in August 2015 that the EU’s response crystallised. What impact did that have between August 2015 and April 2017, when you started renegotiations?

HE Jean-Christophe Füeg: Thank you for the question. I would not make a link between the mass immigration issue and the institutional issue on this particular technical aspect. I think that the EU here is simply seeking to ensure coherence. It sees the internal electricity market as something that is coherent in itself, and whoever wishes to participate in it has to abide by the rules, full stop. It is very simple thinking, logically, but I think it is incoherent² in itself. When this was introduced, we were trying to affect the course of things and the draft—not only the Government but our TSO, Swissgrid, which is part of ENTSO-E and which has a very good reputation in Switzerland. Later we also intervened with neighbouring states. But all that was simply unsuccessful. The EU wants

² The Witness subsequently clarified that he meant to say “..it is coherent in itself.”

to have an internal electricity market as one coherent thing, and either you are in it and abide by the rules or you are not in it. Those issues were simply too technical. Now that the immigration issue is solved, there is no hope that there will be any revision of this clause. It is there, it is cast in stone, and I do not think the EU is willing to rescind it or dilute it in any way.

Lord Young of Norwood Green: Is there an economic case, or can you physically increase your pump storage capacity?

HE Jean-Christophe Füeg: Yes, we can, and it is actually happening. Starting last year, we have an additional 1,000 megawatts of storage coming on line, and another 900 megawatts will come on line in about one to two years. Another smaller plant of about 240 megawatts, which was a refurbishment or an expansion of existing capacity, came online recently. One has to consider, as I mentioned earlier, that Swiss electricity is in a very difficult situation. Basically, today, it is produced at an average cost per kilowatt hour of around 5 euro cents. Compare that to wholesale prices in Germany, which is our leading market; there are different factors, but you get electricity there at an average price of 3 cents, so with 5 cents you are simply not competitive.

This is a tragic situation in Switzerland in so far as hydro is an established renewable source. The fact that the price is so depressed in central Europe, in Germany, is due mainly to three factors: first, the absence of the CO₂ price, whereby German lignite is being pushed into the market very cheaply; secondly, of course, renewables being produced at zero marginal cost; and thirdly, to a certain extent, capacity withdrawals. In continental Europe right now, no one is thinking of building new capacity.

The final investment decision on the pumped storage plants that I mentioned was taken some 10 years ago, at a time when the market was totally different. In those days it was still seen as a good opportunity. Right now, it is very hard for them to make commercial profits on those kind of storage plants. In addition, we need to be profitable to have full access to the German market. When you have congestion at the border, access to the German market may be somewhat hindered, which is another reason for an electricity agreement allowing for optimal cross-border capacity allocation with Swiss plants.

The Chairman: Ambassador, could I just ask you at this point how long you have and what time you can give us? I am aware that we will need to gather pace if you are pressed. How much longer?

HE Jean-Christophe Füeg: I was told until noon your time. One and a half hours overall.

The Chairman: That is fine. We will be finished well before that.

The Duke of Montrose: Living in Scotland, I have a major share in a very small hydro scheme. Are these plans for pumped storage fully approved, and have you had all kinds of environmental constraints in

what you are allowed to do for pumped storage?

HE Jean-Christophe Füeg: Yes. The ones that are just about to be put into operation went through the full permitting, including environmental permitting. There is one quite prominent case of a very large pumped hydro plant, which has existed for decades, called Grimsel. At the turn of the century, they proposed to elevate the existing dam by about 20 metres in order to increase the capacity. One of the obstacles was that the enlarged lake would have impinged on moors that are protected by the Swiss constitution. In a nutshell, to make a long story short, that project has had a lot of environmental opposition and right now is being shelved. But any project can go ahead of course only if it receives all the environmental permits required by law.

The Chairman: I just remind Members that we need to stick mostly to Brexit. I know that we are fascinated by understanding internal Swiss regulations about development, but we need to make sure we stick right to the core of the study that we are doing at the moment. Lord Krebs then I will come back to Viscount Hanworth.

Q47 **Lord Krebs:** Ambassador, thank you very much for your excellent presentation at the beginning, which set out the situation very clearly. I would like to ask about the relevance of the Swiss experience potentially for the United Kingdom post-Brexit. You have described this 10-year negotiation, which is still ongoing, to form an electricity agreement in the energy market. We will obviously have to embark on something equivalent to that after Brexit. Do you think there are particular differences or particular similarities between your situation and ours that we might learn from?

HE Jean-Christophe Füeg: Of course, it is not up to me to guess what the EU's position is, but simply judging from the position we are facing from the EU right now, there is this inextricable link with market access. In this case that is about electricity, but it could be gas. We are not negotiating gas, but the UK could also negotiate gas access. Market access requires an institutional framework, which basically settles the absolutely crucial issues of the dispute settlement, of the mechanism whereby future acquis will be taken over or applied to the market access agreement, and of oversight over those particular agreements. My guess—at least, this is the way we experience this—is that the EU is not willing to budge in any way from that inextricable linkage between market access and institutional agreement. I would also guess that the EU would not be willing to diverge from or to dilute that viewpoint, although of course it is not up to me to judge or anticipate what its position will be.

Lord Krebs: Do the institutional arrangements that you referred to, for example for adjudication, involve the European Court of Justice?

HE Jean-Christophe Füeg: Yes they do, although, if you allow me to beg your indulgence, we are in the midst of those negotiations and I am

not entitled to go into any detail. As you can imagine, this is extremely sensitive.

The Chairman: We know the feeling, Ambassador.

Q48 **Viscount Hanworth:** To what extent does Switzerland co-operate with the European Union on nuclear safety, safeguarding, and research and development? Do you have any form of Euratom membership?

HE Jean-Christophe Füeg: We are not a member of Euratom, nor of the Euratom Supply Agency. We are only an associate country for Euratom research and training, including ITER and fusion. When it comes to the safety of commercial operations, nuclear power plants, the fuel cycle and so on, we are not a part of Euratom. In terms of safety, our nuclear safety inspectorate ENSI is an observer to ENSREG, the European Nuclear Safety Regulators Group. We participated for instance in the stress test and the follow-up to the stress test after Fukushima. We also participate in a peer review on ageing management. Be aware that this has nothing to do with market access—this is about technical co-operation. The EU sees an advantage to Switzerland participating in nuclear safety for instance and therefore has allowed our safety inspectorate to be an observer in ENSREG.

Parallel to that, there is organisation called WENRA, the Western European Nuclear Regulators Association, which is not an EU forum. It is a very technical forum and has no powers when it comes to legal or regulatory developments and enforcement. When it comes to safeguards, again we have no agreement with Euratom; we only have informal contacts. Our fuel cycle is governed by bilateral agreements with France, Sweden and the United States, but again there is no agreement with Euratom. We are also an associate member of ESARDA, the European Safeguards Research and Development Association, a technical body which deals with the implementation of safeguards and with export controls. Again, it is a technical body. The EU sees the advantage of Switzerland participating, and it has nothing to do with market access.

Finally, there are two other groups. ENEF, the European Nuclear Energy Forum, is an exchange forum between market players, Governments, regulators and NGOs, which is more about information; it is nothing to do with policy-making. There is also a Decommissioning Forum Group, which deals with dismantling nuclear power plants. This is associated with DG Energy in the Commission, and Switzerland is admitted as an observer.

Viscount Hanworth: So I take it that we can be somewhat reassured about safeguarding. Can you tell me something about the status of nuclear power in Switzerland? I believe that you probably generate about 30% of your power by nuclear and 60% by hydro, but you seem to want to close down the nuclear power stations over a number of years.

The Chairman: I do not want to get too much into internal Swiss energy policy.

Viscount Hanworth: Very briefly?

HE Jean-Christophe Füeg: Very quickly, before Fukushima, Swiss popular opinion was split 50:50 over nuclear. After Fukushima, as you can guess, the opposition to nuclear just skyrocketed. Any new nuclear plants would have needed a law that by definition could have been overruled and rejected by a referendum. In a nutshell, it became inconceivable for any new nuclear power plant to be built in Switzerland, with over 80% of the population opposed to it. However, the Government decided not to enforce a deadline for the closure of nuclear power plants, and our five plants can run as long as they are deemed technically safe or commercial by the operator. In fact, the first plant will shut down at the end of 2019 for commercial reasons, because the operator does not want to continue operating it. The others may run as long as they are safe. We expect that the last nuclear power plant will shut in the mid-2030s, or thereabouts.

The Chairman: We will move back to the area of negotiations now, which was part of your presentation.

Q49 **Baroness Wilcox:** Thank you very much indeed for that excellent presentation. We have learned a lot. In recent negotiations, what have the barriers been to deepening Switzerland's engagement with the Internal Energy Market?

HE Jean-Christophe Füeg: They have been mostly these network codes that I have alluded to. I mentioned the one that regulates cross-border capacity allocation, which is about market coupling. But there are others in the pipeline, even for³ market coupling for the day-ahead market. This is being enforced and Switzerland is being excluded from market coupling.

The next one under the same Regulation is for intra-day. Here, we are witnessing Switzerland having engaged with its northern neighbours in intraday trading through platforms that have been established by the Transmission System Operators. Now, a new intra-day project is emerging, which will be shaped in compliance with EU regulation. We have sought, with the support of our neighbours, to preserve the existing arrangements, but we have not been successful. This is a case where Switzerland is doing intraday trading and risks being excluded in the future. To come back to my chair metaphor, we are sitting at the table but we feel threatened that the chair may be withdrawn from under us. I apologise if I am getting too technical.

Another network code is the so-called forward capacity allocation, which came into force in October last year, which has the same Swiss clause. Until now, forward capacity allocation has been handled by a body called the Joint Allocation Office, in which Switzerland has been participating for years. Although no final decision has been taken yet, this body is likely to be replaced by a body called the single allocation platform, from which

³ The Witness subsequently clarified that he meant to say " ..apart from market coupling.."

Switzerland risks being excluded—again, back to the metaphor, the chair may be withdrawn from under us.

When it comes to ENTSO-E, the association of transmission system operators, Switzerland is a full member. However, in the so-called Articles of Association, which is sort of the constitution of ENTSO-E, there is an Article 12.3, which does not mention Switzerland specifically but mentions third countries. It says that if a Transmission System Operator of a third country does not get certification according to EU rules, that transmission system operator may be excluded. This is a theoretical Damocles sword. Swissgrid has not yet received certification under EU rules. We hope it will get that certification once we have an electricity agreement. But theoretically Switzerland has this Damocles sword; even in ENTSO-E, the body which Switzerland helped found many decades ago. Again, we do not think that anyone will activate that Damocles sword, but it is a very uncomfortable situation.

I alluded earlier to the fact that ENTSO-E has a working group that establishes the algorithms and methodology for the flow-based market coupling, which is this very advanced way of trading. Switzerland is excluded by invoking the Swiss clause of the CACM Regulation. So although we are in ENTSO-E, in one specific case, which is very sensitive to Switzerland, we are already excluded. It just gives you a picture—again, the metaphor: sitting at the table but feeling that somehow you risk having your chair withdrawn from under you.

- Q50 **Baroness Sheehan:** Ambassador, I add my thanks for your very clear presentation. The inquiry has heard evidence that emphasises the need for a common institutional framework. You yourself have emphasised that aspect already. Do you have anything to add to what you have already said on that? The evidence has also emphasised that a shared dispute resolution mechanism to enable non-EU countries to engage with the Internal Energy Market is going to be necessary. Please could you tackle that question, too?

HE Jean-Christophe Füeg: I fully concur with that. The EU stance is that there has to be a dispute resolution mechanism. Whether you dub this mechanism shared or whatever adjective you add to that, I am not in a position to comment right now. As I said earlier, we are at the heart of negotiating this with the EU, so I cannot go into any detail on that matter. But the statement that you just cited, that basically the EU insists on having a dispute resolution mechanism, is one that we have been witnessing over the past couple of years.

The Chairman: Can we move on to the influence side? Lord Rooker.

- Q51 **Lord Rooker:** Good morning, Ambassador. To follow up that last point, I realise that there is a sensitivity about your current negotiations, which you expressed to Lord Krebs earlier on. In the current situation with Switzerland and the EU and all the various bodies that you are a member of or an observer of, are there any circumstances in which Switzerland is subject to the European Court of Justice?

HE Jean-Christophe Füeg: No. Electricity trading, although it is very intensive on the ground, is not subject to any EU legislation as such. We are in a sort of legal void right now.

Lord Rooker: Thank you very much. That is very clear. This is probably something you have already answered in the round, but do you feel that Switzerland has any influence regarding the shaping of EU energy policy and legislation? If you have any, what degree of importance do you put on that aspect?

HE Jean-Christophe Füeg: The influence is very limited. Although we try from the Government, we try from market players, Transmission System Operators and regulators, we speak to the EU, we speak to our neighbouring countries, the only success that we have had so far—and it is still not totally finalised—is the balancing of energy. We could argue that it has an impact on the overall safety of the European network and that excluding Switzerland full-scale from that would be counterproductive for the Internal Energy Market. This is probably the only instance where we, with the backing of our neighbours, actually achieved a little success. Otherwise, we have no say in decision-making. We participate in consultation processes, like any other member of the public in Europe. But direct influence is very limited.

Q52 **Lord Young of Norwood Green:** First, Ambassador, I, too, thank you for the presentation. I think you have probably already answered the question I was going to ask. Nevertheless, perhaps we will try to explore it a little bit more. We still have time. What routes do you feel are most effective in trying to influence the regulators?

HE Jean-Christophe Füeg: The regulators. Even here, we only have limited access. You will be aware of ACER, the European Agency for the Cooperation of Energy Regulators. Switzerland's only interaction with ACER is through a memorandum of understanding, which our energy regulator has signed and which affords it the status of observer in one Working Group on Electricity. So, again, it is extremely limited. I cannot guess what ACER's thinking was, but basically it said, "It makes sense to have the Swiss regulator at the table as an observer when it comes to discussing the implementation of electricity regulation", but it did not go beyond that.

Lord Young of Norwood Green: I presume the same thing applies to the European Network of Transmission System Operators for both electricity and gas.

HE Jean-Christophe Füeg: When it comes to electricity, I have already explained that we are a founding member of ENTSO-E but we have this Damocles sword. I do not want to overdramatise the Damocles sword; we do not think anyone will activate it right now. ENTSO-G is something slightly different. First, Switzerland has not embarked on negotiations for a gas agreement with the EU. We have a relatively limited gas market. You cannot even say we have a gas transmission system operator, because our gas market is still very unliberalised. Anyway, Swissgas,

which can be somewhat likened to a transmission system operator, is an observer in ENTSO-G. That is it.

Another element is that in the EU there is the Gas Coordination Group, which discusses gas issues. Under the Regulation enforced by the EU on the security of gas supply in 2010, countries have to carry out three studies: a risk assessment of their gas supply situation; a preventive action plan; and an emergency plan. Switzerland decided to do that as well, even though we are not subject to that Regulation. It simply makes sense as we are in the middle of the Union gas market. We were invited sporadically to participate in the Gas Coordination Group to present our risk assessment and preventive action plans, which of course need to be co-ordinated with our neighbours. It has nothing to do with market access. It has to do with supply and the EU saw a clear advantage in involving Switzerland in the work when it comes to preventive action plans for gas.

Lord Young of Norwood Green: You told us earlier about your major import route. You are going to install reverse flow by 2018, so I assume that is part of your risk assessment.

HE Jean-Christophe Füeg: That is part of it, yes. Reverse flow is also part of EU Regulation. The decision to do reverse flow was taken by the pipeline operator, which is a private company. It was its choice to do it. Of course, we as a Government did not interfere in that. It saw that it made sense and decided to go ahead. Incidentally, we are becoming EU-compliant, even though we are not subject to EU gas regulation.

The Duke of Montrose: Thank you very much, Ambassador. It is all very useful information in the situation in which we find ourselves. You were saying that the real key for influence in negotiation was having some feature that other Member States really require, and you made fairly clear where the Swiss strengths lie. From your knowledge, can you say what strength the British market would have in approaching Europe?

HE Jean-Christophe Füeg: That is quite difficult. Of course, I am not a specialist on the British market. When it comes to LNG imports, it remains to be seen how much LNG would land in the UK and then go on to the continent. Of course, Ireland is an issue, but otherwise, honestly, I am not aware of the UK having anything that I would call a unique selling point; that is, something that you would bring to the Internal Energy Market, both electricity and gas, which in the countervailing scenario of you not bringing it to the market would put the Internal Energy Market in some sort of jeopardy. My words may be a little dramatic, but our experience is that your unique selling point has to be really big.

The Chairman: Thank you. That is a very interesting comment.

Q53 **The Earl of Stair:** Ambassador, thank you for a very informative and interesting discussion. Switzerland is part of the Pentalateral Energy Forum, along with other countries in west and central Europe, but I would like to look beyond the EU and the EU grouping. What other regional or

international energy co-ordination groups does Switzerland find it valuable to work with?

HE Jean-Christophe Füeg: I will just comment on the Pentalateral Energy Forum. We are an observer. We have excellent relationships with the Governments, TSOs and Regulators of the countries in the Pentalateral Forum. There have been instances when the Ministers of those countries have adopted or supported Swiss views. But, again, there is a limit to that. The Pentalateral Forum, which is not really a formalised group, has not been able to enforce any of its views or really push for any of its views supporting Switzerland to be carried into the EU legislation process.

To respond to your earlier question, maybe not a unique selling point but an analogy with our Pentalateral Forum would be a forum such as NSCOGI, the North Seas Countries' Offshore Grid Initiative, in which all the riparian states of the North Sea, including the UK, have a project to expand the future offshore grid in the North Sea. This may be an analogy whereby, like Switzerland being an observer at the Pentaforum, the UK could secure some sort of association status in NSCOGI. I would not call this a unique selling point, but it may be something to reflect upon.

To answer your question more directly, there is an organisation called the Energy Community of South East Europe, which I am sure you are aware of, which covers countries in the Balkans that are not⁴ candidates for EU accession. The EU is partaking in that Treaty, which includes Ukraine, Georgia and a few other countries. We have assessed whether it would be some way, in case we face a total deadlock in bilateral negotiations with the EU, of bypassing that deadlock.

We have come to the conclusion that it would not bring us any further forward. There are two main reasons. First, the countries of the Energy Community Treaty must also accept the EU energy acquis; that is, electricity plus gas. We are not negotiating a gas agreement with the EU, so docking with the Energy Community would actually enlarge the scope of what we are negotiating with the EU right now. Secondly, the negotiation partner of those countries, again, is the Commission. So it would be a bypass, but we would basically end up with the same negotiation partner but with a larger package, the difference being that the countries of the Energy Community have longer transposition periods because they may be economically less advanced and so on. It is just a matter of buying time. So basically we have discarded this option.

Baroness Sheehan: Could we go back to the absence of a shared dispute resolution mechanism? In the legal void, as you termed it, have there been any occasions when you have found that problematic at all?

HE Jean-Christophe Füeg: The situation is that other bilateral treaties that Switzerland has with the EU—there are many of them—are governed

⁴ The Witness subsequently clarified that he meant to say "...that are candidates for EU accession."

by joint committees. If the joint committee cannot find an agreement, there is no mechanism whereby you can take the dispute to a final dispute settlement body. This may be unsettling, or difficult to live with, but our interpretation is that the EU has probably considered this more unsatisfactory than Switzerland has so far. That is likely to have been one of the primary motivations for the EU requiring that there should be a dispute settlement mechanism whereby a dispute can be taken all the way to a final settlement. But this concerns other bilateral agreements with Switzerland, not electricity.

The Chairman: Thank you. Perhaps I can just get one point of clarification. Why is Switzerland excluded from the ENTSO-E working group on market coupling, despite actually being a full member of it, as we understand it?

HE Jean-Christophe Füeg: It is excluded from a sub-group, or specific working group, which is elaborating the methodology for calculating flow-based market coupling. That is where you try to assess, almost in real time, electricity flow. This is sort of the ultimate advance of market coupling. Since this work is carried out under the CACM Regulation of 2015, which stipulates explicitly that Switzerland will not participate, the working group has not been open to Switzerland, as that working group deals with an issue that is governed by that CACM Regulation.

The Chairman: I suppose we are just trying to understand how you can be excluded. Is it a voluntary exclusion? You have membership.

HE Jean-Christophe Füeg: Because that working group deals with something that is governed by the CACM Regulation, which states that Switzerland may not participate. One may disagree, but at least it has an internal logic, since it deals with something that is governed by a clause that excludes Switzerland, so they will not admit Switzerland.

The Chairman: One of the things that strikes me, particularly from your presentation, is how central Switzerland is, not just geographically but in terms of the European energy network. But the fact that you appear to have so little leverage, except in the one area that you stated and described, is quite salutary to us.

As a very last question, with the great knowledge and experience you have, do you have one piece of advice you might give to our Government on their negotiations in this area?

HE Jean-Christophe Füeg: I do not know whether it is appropriate to make any jocular comments.

The Chairman: If I put it a bit more diplomatically, is there something that we should perhaps particularly concentrate on or put in our report, which will go to our Government, about how they approach this area?

HE Jean-Christophe Füeg: It really comes back to the unique selling point. Think hard about what you can find as a unique selling point. The other issue is how much you link, say, your energy concerns or whatever

your future negotiating stance is on energy with other issues. But that is the big picture, and of course I am not in this situation. When you focus on energy, frankly, the only piece of advice I can give is to think hard and try to find some unique selling point.

The Chairman: Good. Your Excellency, thank you very much indeed for participating with us in this inquiry. You apologised for getting into technical detail, but actually that has been incredibly important to us, particularly the examples, so that we can talk about specifics in this report rather than generalisations. Your evidence will be fundamental to our report and we thank you very much indeed.