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The RES Directive needs a proper review clause

The new EU Renewables Directive can be an important tool for optimising investment in renewable energy in Europe in the decade up to 2020. A review clause, relating to the effectiveness of Member State support schemes and their use of flexibility mechanisms, is in our view an essential element of the legislation, if it is to help deliver the most cost-efficient support for renewable energy production across Europe and make it more likely that the targets will be met. The electricity sector, represented by EFET, RECS International and EURELECTRIC, is of the opinion that in 2013 at the latest the European Commission must evaluate the new Directive and make recommendations on any adjustments needed in relation to support schemes and the utilisation of flexibility mechanisms. A clear review clause for this purpose must therefore be written into the Directive.

Efficiency reasons

The overall targets set in the proposed Directive for the proportion of renewable energy in total energy consumption are very ambitious. But they can be achieved if investment incentives and inter-state trade options are set judiciously. Currently the national targets proposed by the EU Commission are not based on the physical production potential of the different Member States, but rather on a "flat-rate" increase from current levels plus a GDP per capita adjusted supplementary increase. This method for setting targets implicitly assumes that a significant level of RES trade can be undertaken between Member States. Even assuming trade flexibility, in order to meet the targets very substantial new investments in generation capacity and grid reinforcements will be needed in those regions with the greatest resources, for example wind force and sun strength. Only geographical flexibility in the location of new production facilities, mediated through market mechanisms, can efficiently lower the overall European subsidy cost and optimally limit disturbance to existing grid users.

Eventually the end consumer will have to pay for investments in renewable energy. The Commission's own impact assessment estimates € 8 billion savings per year by 2020 through the use of flexibility mechanisms, compared to a scenario of uncoordinated national action. In the light of the current difficult economic climate, it seems highly undesirable to adopt measures that entail avoidable financial burdens for European consumers in the next decade. Only good market liquidity and increased efficiency can decrease the cost to consumers. Market mechanisms are imperative to enhance competition between renewable power technologies and projects and to trigger further innovation. It should be full recognised that an extra, indirect cost will be incurred if the RES targets are pursued on a purely national basis, since some subsidy schemes lead to distortions in the existing wholesale electricity markets.

While the Directive will include flexibility mechanisms, there are few precedents for a government-led scheme the type envisaged. The link with market participants, who will have to undertake the renewable generation investment required, remains unclear. Consequently, it will be essential to undertake a review of experience with the flexibility provisions.

Legal reasons

Apart from economic arguments, the introduction of a review clause is essential in order to allow the EU Commission to check on Member State compliance with the trading and investment freedoms guaranteed by existing European law (Directive 2001|77|EC and EU Treaty Articles 28 and 30). Furthermore, there is a governance obligation on the EU Commission to add review clauses into legislative proposals, in particular in areas of technological change. Renewable energy falls under that category. This governance obligation, involving consultation with the European Council and Parliament, is restated in the 2002 Communication on simplifying and improving the regulatory environment.

Suggested review clause

Based on the economic and legal reasons examined above, we suggest the following wording of a new Article [3 (2b)] [20…?] based on the proposal made by the French Presidency on 17th October 2008:

> ***"By 31 December 2013 at the latest, and every two years thereafter, the Commission shall assess the implementation of the provisions of this Directive with respect to the measures taken by the Member States to achieve the targets according to Annex I and the costs, benefits and efficiency thereof. The assessment should include the flexibility measures, facilitating the exchange of guarantees of origin evidencing renewable energy production or of target-related certificates or production quotas between Member States, as set out in Articles 7 to 10. The Commission's analysis should in particular look at whether the opening of national support schemes to applications from producers in other Member States and/or an EU-wide harmonized support scheme would deliver a better result economically and ecologically than the continuation of only national schemes and/or voluntary regionally co-ordinated schemes. The Commission shall report to the European Parliament and to the Council and shall propose adequate adjustments to this Directive if necessary."***
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> Justification: As early as possible after 2010, based on the experiences of the first interim target period, an evaluation needs to be made of the efficiency of the support schemes applied by Member States. The evaluation should take account of the interests of final consumers and examine the economic and ecological

consequences of any geographically and/or meteorologically indiscriminate national investment incentives for new renewable energy production projects. If unnecessary costs to consumers or perverse consequences are identified, the European Commission may consider that subsidy scheme harmonisation measures and/or adjustments to the EU target flexibility mechanisms are advisable.

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The European Federation of Energy Traders (EFET) is an industry association representing over 90 trading companies operating in about 20 European countries. Go to www.efet.org. Contact Ilaria Conti: ilaria.conti@efet.org or on +32 2 732 5474