

EREF

European Renewable Energies Federation

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Answer to EU Commission's question list in preparation of the DG TREN Stakeholder consultation seminar on December 6th 2007: Tradable guarantees of origin in renewable energy

Introduction

EREF has prepared a more detailed paper on the flexibility and the 2020 targets which is attached to this answers and which should be regarded as part of this document.

EREF's condensed call on the European Commission, Parliament and Member States for a clear way forward to 20 % renewables in 2020:

- 1. Priority access for renewables to the EU 27 grids.***
- 2. Forced unbundling of grid and energy production activities***
- 3. Priority for investment in decentralised energy production***
- 4. Priority for research in all renewable technologies***
- 5. Strengthening of structural and regional fund programmes focussing on deployment of renewables and increased manufacturing of renewable technologies in Europe***
- 6. Push for introduction of efficient new national mechanism and strengthening of existing national support mechanism for renewable energy development***
- 7. No harmonisation of national support mechanism for renewables in the short term***
- 8. No EU 27 voluntary or mandatory virtual Certificate trade for Renewables***
- 9. Clear national renewable targets with interim targets for all sectors of energy use***
- 10. Flexibility and balancing mechanisms for target achievement only between Member States which have reached their interim targets and are on track for the 2020 target***

1. Certificate trade will push independent power producers out of the market and will ever increase the power of oligopolies.
2. Tens of thousands of jobs which will be destroyed in Europe as a consequence, for the lost opportunity for new Member States to develop their own renewable industry, for the ever increasing prices for electricity and for a standstill of the broad renewable technology development.
3. We already face a predominance of centralised power in distorted overall energy markets, how far is this going to be stretched?
4. The European Commission currently and courageously is asking for forced ownership unbundling of grid activities away from power production activities in Europe.

5. This missed unbundling of industries such as E.ON is one of the major obstacles towards a fair energy market.

6. Unbundling of grid ownership from production, rapid enhancement and enforcement of the electricity grid as well as cross-border interconnections have to be realized in order to physically transmit the amounts of electricity to be transferred. This will lead to increase of physical trade of all electricity including renewable electricity and should allow for more competition and lower prices.

Question 1: How could Member States be helped to meet their targets with flexibility? What are the alternatives to direct GO trade? Is there an optimal tool?

1. The first step is to acknowledge that flexibility only means to reach a level for Member States which ensures fulfilment of the national 2020 targets on RES increase and which offers some quality to the Member States to follow certain adaptability.

The ball is in the field of the Member States. To reach a national target can be helped by negotiating a balancing trade between Member States.

A Member States obligation to design national programmes to reach the national binding targets restricts adaptability to State to State measures.

2. This is the first and obvious difference to mechanism under the Kyoto Protocol respectively the EU Emission Trading Scheme (EU-ETS).

3. Kyoto introduced of cap and trade system in order to curb down emission trading by industry, transport and energy use. Only under those specific emission curbing policies a flexibility mechanism in form of emission trading, joint implementation and clean development mechanism had been incorporated in the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC). The difference to deployment of renewable energies is especially that the Kyoto Flexible Mechanisms created an artificial market in which emission allowances or emission reduction units are traded. Renewable energy operates on the contrary on a real existing energy market, as distorted as this market still is. Renewable Energies (RES) certainly do not need a cap.

4. There is no need to create a further artificial and EU wide market for virtual trade under the umbrella of differently designed Guarantees of Origin (GoO). This would neglect more obvious, more efficient and less market disrupting measures than virtual trade introduction.

5. Especially in view of the New Member States Europe faces big differences in the development of the national RES markets. In some countries, like Poland, it is still difficult even to talk about a substantial share of new renewable energies in the overall energy mix. GoO as virtual trade papers would be bought to achieve the EU objectives, instead of enhancing local RES resources, developing decentralized generation, increasing local and regional energy security, improving the quality of the environment and creating new jobs. It would be a contradiction to the very idea of Europe to creating national and regional strategies of RES deployment.

6. GoO trade cannot be a mechanism mobilizing to achieve EU goals. Today, in a lot of EU countries, there is a need to invest not only in generation facilities but also in the grid and to create a lot of mechanisms enabling this RES industry to come up and to grow. To achieve this European Member States especially the new members need time and good legislative mechanisms instead of easy access to virtual GoOs on the market.

7. The tradable quota systems introduce a negative feedback punishing success. This is not intelligent in a situation where the REAL goal is commercialisation as fast a possible of new renewable energy technologies.

8. The system introduces new transaction costs to renewable energy, while not to the polluters. Transaction costs are in the same order of magnitude as the extra support the systems give the producers. Thus this would be a waste of public resources.

9. The extra market risks and price fluctuations introduced is a benefit to the large power companies who have large capital to handle price fluctuations while small independent producers are vulnerable in such a process.

10. Certificate of origin is just as important for the worst and most polluting sources of energy. If the Commission chooses to implement the directive 2003/54/EC article 3 paragraph 6 – even if the large polluters do not like to be embarrassed – the same system could help renewable energy without introducing a comparative disadvantage on the renewable energy industry.

11. Voluntary action would be possible and reduce the need for public administration and subsidies. Minimum quotas of renewables could then be introduced for all customers also making voluntary further action possible. Such a system would reduce the comparative transaction cost disadvantage on renewable energy, it would reduce the negative feed back effect as the sharp demand drop as quotas were reached would be avoided.

12. Member State to Member State flexibility for part of the target reaching process would be the optimal solution:

The first step is to ensure a balancing flexibility between Member States in a proper regulatory environment is the introduction of an overall priority access for RES to all grids in EU 27. Based on this the following instruments could be installed to ensure the above adaptability:

- Politically negotiated national targets; more flexibility through following instruments
- Transfer of surplus electricity between MS on the basis of bi- or multilateral agreements under certain conditions:
 - only MS having met all binding (sectoral) interim targets and being on track for the following ones may be allowed to transfer exceeding amounts of electricity
 - MS must have the right to veto against import or export of electricity to be counted towards another Member States' target
 - Clustering: two or more MS could add their individual targets and declare vis-à-vis the Commission to be jointly liable for compliance (and infringement)
 - Joint investment and shared accounting between companies in/from different MS (on the basis of bilateral international agreements). *See EREF EU 2020 Paper as attached*

13. With interim targets and monitoring the European Commission can evaluate if the Member States have used adequate tools under this framework and thus it can then be commented by the Commission if the tools are optimal or if further adaptation would be required.

Question 2: Which countries would want to buy and which would want to sell?

In view of constant Commission's evaluation on the progress of EU Member States it is obvious that apart from Germany which already reached as only country its 2010 target this year, next to nobody will be able to sell based on sufficient increase of new renewable energies but roughly 24 EU Member States will be potential buyers if they do not increase their national policies for new RES. Spain and Denmark could also become sellers, but the drastically increase of energy demand in Spain may neutralize the increase of RES in this country. This means that it is of utmost importance to rapidly encourage creation of national deployment strategies and national mechanisms first to have much more countries entering the successful team group.

Question 3: Who should be allowed to trade? (governments, producers, TSOs, suppliers, traders, bankers?)

Only governments – also as they are also only liable for target compliance and we refer to above answer.

Question 4: What are the impacts of GO trade for target compliance on the national support schemes? What rules are needed to avoid interference?

1. The principle of protection of confidence under the rule of law for the RES market investor would be deeply affected with the introduction of green certificate trading.¹
2. This principle which is deeply rooted in the Member States' legislation and administrative practice but is equally important in the EU supranational law derives from the objectives for fair and equitable treatment. Seven specific criteria have been developed in the scheme of international relations which can be used for this evaluation.
3. The important elements in view of the introduction of EU wide virtual trade are
 - the requirement of stability, predictability and consistency of the legal framework,
 - the principle of legality,
 - the protection of investor confidence or legitimate expectations,
 - the requirement of reasonableness and proportionality. None of these objectives would be fulfilled by introduction of Voluntary or Mandatory Green certificate mechanisms in parallel to national support mechanisms for renewable energy.
4. Virtual certificate trade is already as national mechanism and for example according to specific research for example of CTS for Sweden, Green Certificates
 - not efficient as a measure to correct for the effect of environmental external costs of fossil fuels and nuclear power,
 - not efficient as a measure to create nursing markets for new electricity supply technologies.

¹ See also, Dr. Dörte Fouquet, Legal evaluation of an Introduction of a Trade Mechanism in Certificates, both Mandatory and Voluntary, in EU-27 for Renewable Energy in relation to European Rules on Internal Market for Electricity and European Principles of Free Movement of Goods, Proportionality and Subsidiarity, Prepared for the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety 10178 Berlin; Project: FKZ UM07 41 604: "Wissenschaftliche und fachliche Unterstützung des BMU bei der Diskussion der Fortentwicklung der EU-Politik zur Förderung der Erneuerbaren Energien"

5. The evaluation states clearly:

“It appears that guaranteed feed-in tariffs are a more efficient policy instrument to promote industrialisation of technologies for new sustainable sources of electricity.”²

6. There is no profound difference between the disruptive effects of the introduction of a Mandatory or a Voluntary Certificate Trade Mechanism. In a recent evaluation for the German Government on concept, critical issues and recommendations the authors underlined that in an unrestricted private certificate trading market, Member States have no control of the import and export volumes to and from their countries and limits to the effects of trade or national trade restrictions should be applied.³

7. Both systems, voluntary or mandatory virtual trade, have the same effects, though with mandatory systems the damaging effect on the national support mechanisms is more rapid and more drastic: In the end, the only relevant difference is that voluntary trade mechanisms are a little more flexible concerning the protection of domestic energy production from RES to meet national targets from negative impacts of trade in green certificate.

8. Under the voluntary approach the possibility for a state not to join the certificate trade scheme would exist (opt out).

Opting-out would thus mean that a state could restrict the access to the green certificate market for green electricity produced in their country, which means that it would not participate in the Trade Mechanism outside of the national support scheme. The opt-out alternative cannot work to ensure stability of the national FIS alongside EU-27 Voluntary or Mandatory Trade Mechanisms.

9. The introduction of Voluntary or Mandatory Trade Mechanisms in certificates creates a very high risk leading to a factual phase out of the successful FIS and a decrease in renewable deployment especially in countries such as Germany with less advantageous renewable resources. It will block further market access for independent RES power producers. It is jeopardising the whole energy mix policy and energy programmes of sovereign EU-27 Member States.⁴

10. A minority of countries in Europe uses certificate trading on their market in order to increase the use of RES. Their success is very limited. Traded certificates caused the lowest increase of renewable energy produced in Europe. For onshore wind for example, the UK has reached only 2 GW, whereas the German market with less wind resources already today produced 20 GW in decentralised energy production onshore, predominantly by independent power producers. The price for the certificates under the UK scheme is much higher than the German FIS tariff.

² Tomas Kåberger, Thomas Sterner, Max Zamanian and Anna Jürgensen, Economic Efficiency of Compulsory Green Electricity Quotas in Sweden, Energy & Environment, Volume 15, Number 4, 15 July 2004 , pp. 675-697.

³ Vid. Corinna Klessman (EcoFys) et. al., European renewable energy trade on Guarantees of Origin (GO) – concepts, critical issues, and recommendations for design, Berlin / Karlsruhe / Wien October 2007, p. 4.

⁴ Apart from the imminent risk that such a restriction could cause severe legal problems under national constitutional as under European law , it would not even help to maintain any stability of the FIS as such.

11. It should be underlined that the Association of Chemical Industry in Germany (VCI) is explicitly opposed to trade and certificate mechanisms for RES policies fearing ever increasing electricity prices as result for this energy intensive industry⁵.

12. In short on the negative points with introduction of Certificate Trade mechanisms:

- Average certificate price will develop which will be presumably higher than today's onshore wind tariffs as example
- Pressure on feed-in systems to increase tariffs –
- Investment will be re-directed to Member States with higher tariffs
- Political and social acceptance of higher RES prices due to above detailed transaction costs etc. will lessen the support of citizens to pay more for RES virtual certificates where the real uptake of Renewables did not even happen in their country and energy supply security will further decrease
- Costs for target compliance will be higher all over Europe (compared to feed-in systems today).
- Only investment in cheapest RE-technologies will be likely. Energy intensive industry will move towards countries with cheap Hydro, onshore wind ... i.e. Northern Europe with negative impacts on jobs elsewhere
- Technologies such as modern biomass, Photovoltaic, ocean wave etc. will suffer serious delays in development and price digression
- Higher costs for overall development of RES as result

Question 5: Are support schemes untouched if the GO market opening is left entirely to Member States?

1. Even the introduction of Voluntary TM with an opt-out possibility for a Member State not to allow certificate trade in order to protect its national mechanisms will leave to a rapid phasing out of the national support mechanisms. The main arguments here are in short:

- Since in particular onshore wind is already now better paid in the UK certificate trade mechanisms (14 Eurocents per kWh) against 8 Eurocents per kWh under the German FIS, windfall move will set in. Even if such profits may fluctuate with changing certificate prices and even if prices for certificates may decrease, this is not predictable and the mere consequence of breaking up the national support mechanism by introducing of trade with such windfall effect will be sufficient to increase the danger for investment security and will increase the danger that cheaper RES energy in the national RES energy mix under the support mechanisms will leave the market for higher profit.
- The introduction of EU 27 certificate trade increases the risk that FIS systems will need to put a cap and quota on the market access in order to regulate the overall price situation if cheaper energies leave for windfall profits and would no longer be counted under the national targets. This is at direct conflict to the basic idea of FIS systems not to restrict the amount of RES entering the market.

⁵ see presentation by Dipl. Ing. Wilfried Köplin, Bayer AG, for the VCI on a recent workshop in Berlin (Forum für Zukunftsenergien, 28th of November 2007)

- A windfall export will lead to a situation that the feed-in basket of RES energy mix will become fragile and may collapse. Especially smaller decentralised Onshore-Wind projects would not find sufficient and sufficiently efficient financing and respective investors with conditions suitable for such projects.
- Investment security would decrease immediately, refinancing costs for projects will increase and new projects especially for Photovoltaic will be in danger.
- Small and medium sized producers who tap renewable energy sources, unattractive for big centralised power suppliers, will lose any security for financing of new projects. By this the whole approach of the respective government to push for decentralised sustainable power supply is under threat.
- Investment will not any longer be done in feed-in countries such as Germany since return of investment is much lower already now and so windfall profits can be gained especially in the UK or on markets which will follow UK not wanting to invest in own technology uptake but to rely on certificate trade. Financing institutions would become reluctant to invest in less profitable projects under FIS schemes. This will harm security of energy supply for a country like Germany in the mid and long term.
- All Member states need to reach their mandatory national targets as outcome of the decision of an EU wide binding 20 % target. If decreasingly cheaper onshore-wind investment will be done abroad, FIS countries will lose the cheap part of its feed-in basket. This would increase the overall cost allocation for EEG-Res in the consumer price and may lead to less RES deployment and shrinking expectation that the FIS country can meet its target with its own national support mechanism. Again, the FIS country would need an increase of the more expensive parts of the basket which stay behind such as Photovoltaic or Offshore wind. Or it would need to raise the feed-in tariffs for onshore wind.
- The consequence will be an overall price increase for RES electricity. By this the political pressure and campaigns against the FIS especially by the German oligopolies will be enforced and consumer will lose their respect and acceptance to the system. Germany will not be able to keep its FIS.

2. The introduction of a voluntary or a mandatory certificate trade mechanism on the EU level would make renewable energy more expensive all over Europe. The German government estimates additional costs of such a mandatory trade scheme would be 100 billion Euros until 2020 for the consumers in the EU-27. For Germany alone, it is estimated, that the costs for renewable electricity compared to the present FIS will almost double.

Question 6: Would technology differentiation still be possible with GO trade?

Only theoretically yes. But as experience from countries with Certificate Trade Mechanism shows: Banding can only provide small niche markets and thus severely delay development of PV and other presently more expensive technologies

Question 7: What mechanisms or rules (compatible with EU law) could be used to limit exports and imports? (Could there be support scheme "lock ins" for example?)

Once trading system is established as a common EU system, there will not be any reliable way to restrict virtual trade (and therefore avoid investment insecurity) and even less the above described negative impacts.

Question 8: What is needed to ensure accurate and reliable cross-border transfer of GO? Are new institutions (e.g. registries) necessary?

As recently pointed out by the responsible Director of the German Ministry of Environment, Mr. Kaiser in Ljubljana during the Feed-In Conference in October 2007, this would become a major nightmare for the German administration. Thanks to its FIS System, Germany alone has thousands of RES electricity producers, often at very small scale.

New standardized institutions would be necessary to issue GoOs and to control their flow. Even if lessons from establishing ETS were learnt, this would mean 27 + 1 issuing bodies with enough personnel to provide reliable GoOs and to monitor the flow of virtual trade certificate would be enormous.

Question 9: Should the use of the GO for "disclosure" and "target compliance" be linked/separated?

GoOs should in line with current EU directive and national legislation - only be issued on request for disclosure. There should not be any Virtual Trade Mechanism attached to this origin certifying document. GoOs are not needed for target compliance.

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