



European Renewable Energy Council

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EREC POSITION PAPER

EREC supports the approach proposed by the Rapporteur on flexibility for Member States to meet their renewable energy goals

Brussels, 28th of May 2008 - The Rapporteur of the European Parliament Claude Turmes recently presented his report on the Renewable Energy Directive. The Rapporteur drafted a coherent and strong alternative to the Commission's proposal providing for additional flexibility for Member States on meeting their targets and removing legal uncertainties in the Commission's proposal. The system is based on four elements: bilateral/multilateral agreements between Member States, common target fulfillment, project-based flexibility and an "opt-in" system into a certificates market for those Member States who decide on a voluntary basis to use this tool as a flexibility mechanism.

"The European Renewable Energy Council believes that the proposals are going in the right direction on this complex issue", states EREC President Arthouros Zervos. "This approach provides for more flexibility for Member States to meet their renewable energy targets while leaving them control over the achievement of their national targets and policies. This solution also eliminates the legal uncertainty of the text. Nevertheless a careful look into the details needs to be taken, adjustments are necessary as it seems to be quite complex. We hope the European Parliament will reach a broad agreement on an improved alternative solution."

The Rapporteur's proposal is made of four key elements:

Various Flexibility instruments are available to the Member States.

"The Rapporteur's alternative solution provides for more flexibility than the Commission's proposal: several options for Member States to achieve part of their targets abroad are available" states EREC President.

Bilateral or multilateral agreements between Member States can take different forms:

- Two or more Member States can agree to transfer energy from renewable energy sources statistically between themselves to count towards the other's target. A

Member State can only transfer energy statistically if it has exceeded its interim target.

- Renewable energy projects could be carried out by an “investor country” in a “host country”. The energy produced would then count towards the investor’s target. The volume transferrable is limited to the surplus achieved by the “host” country compared to its interim target.
- Joint target achievement between Member States could take place with or without opening of support schemes to other Member States’ companies.
- Common “green certificate markets” based on Transfer Accounting Certificates as an “opt-in” mechanism (explanation below)

Guarantees of origin (GO) and Transfer Accounting Certificates

A key element of the proposal is the clear differentiation between “guarantees of origin” and so-called “transfer accounting certificates”. The directive – as proposed by the Commission - would eliminate the existing trade in guarantees of origin for fuel mix disclosure purposes. *“The Rapporteur’s alternative proposal does not disturb the existing GO market for disclosure, enabling companies to continue to offer green products to their customers which will positively impact customers’ choice”, adds Arthouros Zervos.*

The Rapporteur proposes that guarantees of origin keep only their disclosure function. But, if Member States choose to transfer certificates counting towards another Member States’ target, then they can issue a *“Transfer Accounting Certificate”* valid only for those countries who opt to use such a voluntary system.

An opt-in system rather than an opt-out system:

“This opt-in clause has two key advantages: the first one is to make it easier for countries - who wish to do so - to have common green certificates markets or clustering of feed-in tariffs without undermining the support schemes of other Member States. The second one is to eliminate the legal uncertainty of the current directive proposal”, analyses Prof. Zervos.

Currently, the basic principle underlying the Commission’s proposal is: companies can trade guarantee of origin (GO) for target-accounting purposes (Article 9.3). And Member States can set limits to this trade (*opt-out*: Article 9.2).

The Rapporteur proposes to reverse this principle: the rule would be renewables development supported by functioning national support systems and physical allocation and transfer (on a statistical basis) of electricity from renewable sources. Cross-border trade of Transfer Accounting Certificates (TAC) at company level takes place only in and among those Member States who opt to transfer TACs. The proposal makes it even easier for them to do so. Cross border transfers of certificates will only be authorized if the “exporting” Member States has exceeded its interim target.

Background information

In order to give Member States greater flexibility in achieving their targets, the Commission has proposed in its Renewable Energy Directive proposal to introduce a system of cross-border transfer of guarantees of origin for renewable electricity. With this directive, the Commission would introduce a new good: a guarantee of origin, which would count towards another Member State’s national target. The Commission’s proposal – as it is currently drafted - would lead to a massive

increase in costs for target achievement and to endangering national support schemes for renewable electricity.

Indeed, even if the Commission's will was not to undermine existing support schemes, the Directive proposal as currently drafted is not legally safe and can be challenged before the European Court of Justice: Under Article 28 of the EC Treaty, limits to trade set by Member States run against the free movement of goods. This could lead to a decision by the European Court of Justice to forbid any limit set by Member States to trade of guarantees of origin at company level, hence making the clauses of "prior authorisation" inapplicable in practice. If this materialises, unlimited trade at company level will take place, leading to investments in a limited portfolio of the cheapest renewable energy technologies to the detriment of more expensive technologies with a very significant long term potential; undermining national support schemes and increasing costs to achieve the target. EU-wide additional annual costs of such a system are up to €30 billion higher, as pointed out by the Fraunhofer study, a study referred to in the Commission's impact assessment to the Renewable Energy Directive.

EREC, the European Renewable Energy Council, is the umbrella organisation of the major European renewable energy industry, trade and research associations active in the field of photovoltaics, small hydropower, solar thermal, bioenergy, ocean & marine, geothermal, wind energy, concentrated solar power and biofuels. It represents an industry with an annual turnover of more than 40 billion € and more than 350.000 employees.

EREC represents:

- AEBIOM (European Biomass Association)
- eBIO (European Bioethanol Fuel Association)
- EGEC (European Geothermal Energy Council)
- EPIA (European Photovoltaic Industry Association)
- EREF (European Renewable Energies Federation)
- ESHA (European Small Hydropower Association)
- ESTELA (European Solar Thermal Electricity Association)
- ESTIF (European Solar Thermal Industry Federation)
- EUBIA (European Biomass Industry Association)
- EU-OEA (European Ocean Energy Association)
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