

Comments on the draft of the Chinese Renewable Energy Development and Utilization Law

On 14th September 2004, representatives of EREC, the European Renewable Energy Council, and EWEA, the European Wind Energy Association participated together with a delegation of European wind turbine manufacturers and developers in a workshop with representatives of China's People's Congress to give comments to the Chinese Renewable Energy Development and Utilisation Law (draft 15th July 2004).

The following issues were discussed during the meeting:

The representatives welcome the efforts of China to create a stable framework for renewable energy sources. It is recognised that the NDRC's draft of the law provides the general legal framework for the future development and utilisation of renewable energy in China and that this law will be supplemented by a set of more detailed pieces of legislation to specify the terms of application in the areas:

- System of national target of RE development
- System of priority of RE accessing power grid
- Catalogue RE power price system
- RE power price sharing system
- Special capital system
- Loan Measures
- Tax Measures.

The European delegation very much welcomes this approach of the Chinese Government and would like to put forward the following recommendations based on experiences from 25 years of renewable energy promotion law in European Member States:

RES-e framework

Any renewable electricity (RES-e) framework needs to consist of the following four cornerstones, which are of equal importance:

1. Targets with clear timetable
2. Administrative procedures
3. Grids and grid access
4. Power price system

If one element is missing, the framework collapses. The current Chinese draft law contain all these elements. However, it is important to recognise that it is crucial to get the details of these four elements correct for the framework to be effective.

1. Target setting (Art. 4, 15, 26, 32)

During the discussion, the importance of setting clear targets was stressed. Targets are an important means of policymaking and are the basis for industrial development. The clear commitment in the form of mandatory targets together with an implementation plan as well as a timetable for their implementation is crucial. The delegation therefore very much encourages the Chinese Government to adopt clear and transparent targets for RES development in China, i.e. in the order of 5 % of RES of global energy demand in 2010 and respectively 10 % in 2020. For reasons of transparency and monitoring, it is suggested to translate the overall energy target into a RES-electricity target.

The same procedure was followed in Europe with the White Paper on Renewable Energy Sources (fixing an overall energy target in the order of 12 % by 2010), which was then translated into a RES-electricity target in the Directive on the promotion of RES-electricity. The corresponding share of electricity is an increase from 14% in 1997 to 21% renewable electricity for the EU-25 by 2010.

In the current draft, the proposed target is on installed capacity and not electricity production. This should be reconsidered as experience in Europe and elsewhere has shown that systems which relate to installed capacity rather than the production of the electricity are not ideal because they do not contain an incentive for efficient operation of the installations, which could have adverse effects on technology development. It also creates confusion because different power technologies have different capacity factors.

We understand that it is proposed to translate this overall target for China into a RES-electricity generation target for utilities with an installed power generating capacity over 5 GW (Art. 26). In this respect, the definition of penalties in case of not fulfilment of this obligation is important (Art. 46, 47). Ideally, the penalties should be set so high that no one would ever make use of them. Furthermore, it should be ensured that in case of penalty payment, the money is reused for renewable energy investments.

2. Administrative procedures (Art. 12, 15, 17)

The clear division of responsibility between the state, regional and local government level in applying for building permissions is of utmost importance. Experience has shown the necessity of a one-stop-shop concept, meaning one body being responsible for applications and granting of building permits.

It is important to introduce short deadlines for authorities in processing applications.

3. Grids and grid access (Art. 27, 28, 29)

It is important to give priority access to electricity produced from renewable energy sources. Clear regulations and division of responsibilities on issues such as grid building, grid strengthening, grid connection costs and balancing are needed.

As far as the question of grid connection costs is concerned, the system to be set up needs to be objective, transparent and non-discriminatory. It should take due account of the benefit embedded generators bring to the grid such as strengthening the grid,

minimisation of transmission losses as well as minimising the need for grid investments, particularly for remote areas.

When defining a system of cost sharing, the following consideration should be taken into account: Grid connection costs for distributed renewable electricity generators arise anyway and need to be borne by society in one form or the other. If they are paid by the developer, this will have to be reflected in a higher price for the electricity sold. However, letting the individual project developers bearing the cost and responsibility for grid connection and grid extension would make overall planning very difficult, and more costly for society as a whole. If the grid operator bears them, cost will still be shared among all electricity users. However, grid operators will be able to benefit from synergies and decreasing costs through e.g. connection of several decentralised generators. This is not possible for individual project developers. Overall grid planning would also be easier and less expensive.

Different experiences have been made in Europe: they range from Denmark where grid costs from the wind farm to the grid are borne by the grid company to examples where the renewable electricity producers need to bear the costs to the nearest point of the low-voltage grid (the case in Germany and Spain) or where grid and connection costs are shared between grid company and renewable electricity generation company.

In conclusion, the approach where the grid company bears the costs of grid connection is cheaper for society, furthermore it is the faster solution and better coordinates overall grid investments if one regional grid company is responsible rather than many small generation enterprises.

4. Power price system (Art. 37, 38, 39)

We understand that the proposed system is based on the overall idea of a fixed price system supplemented by a bidding system in combination with a legally binding quota for renewables. It is considered important that the bidding (concession) system is not the only option pursued. Nowhere in Europe has an isolated bidding system been able to create a market for renewable technology, although several attempts have been made. Industrial development needs continuity, which is difficult to achieve through bidding systems. The law should define for which kind of projects bidding will be used. Bidding could for example be reserved for prime sites or very big sites. However, bidding might result in dumping prices, for which the sites will never be built. In order to avoid non-realisation of projects in case of bidding, the introduction of penalties combined with deadlines and performance bonds is essential.

Stability and continuity resulting from fixed prices is very important for developers and is one of the preconditions to make projects bankable. A project developer should be able to know the available tariff for a period of 10-20 years in order to be able to obtain the necessary finance for the project. The tariff does not necessarily have to remain at the same level throughout the 10-20 year period, but the level(s) should be known at the outset of the project, e.g. the tariff can be of digressive nature. Tariffs should be fixed in absolute term and should not be a percentage of an average sales price at local grid.

When deciding the length of the guaranteed tariff, the following considerations need to be taken into account: The longer the Power Purchasing Agreement (and therefore the guaranteed tariff), the lower is the risk to the investor, the lower is the cost of producing the electricity and therefore the lower is the cost to the consumer.

Tariffs should be adjusted to reflect reductions in production costs as a result of improved technology. However, adjustments should not be more often than every 5 years to make sure that project under development does not suddenly face a new economic reality. It is counterproductive to adjust them too often as this will make planning for developers difficult and create an atmosphere of instability. In case of adjustments, the adjusted prices should only be applied to new projects.

The tariff itself should be inflation adjusted. Furthermore, in order to reflect the different stage of development of the different renewable energy technologies and the differences in production costs, a technology-specific tariff structure is needed.

Cost should be shared between all electricity consumers as all consumers benefit, both in terms of electricity supply (regionally) and a cleaner environment (nationally and globally), not only those in the renewable resource rich areas.

Foreign investment, R&D, training, certification and standardisation

A stable framework is the basis for any renewable energy development and will lead to attracting foreign investment, thereby securing market development as well as contributing to security of supply.

The delegation would like to stress the importance of availability of skilled workforce, therefore the inherent need for respective training as well as R&D policies as outlined in Art. 8, 9 and 23 of the law.

The lack of information and awareness is still one of the major barriers to the uptake of renewable energy sources. One way to counteract this is to facilitate the creation of business associations such as EWEA or EREC. The delegation highly welcomes the proposed empowerment of such bodies as specified in Art. 25.

As far as standards and certification are concerned, adequate procedures for standardisation and certification of equipment have been developed in the past, which are recognised at international level. The delegation strongly encourages the Chinese Government to recognise these global standards (Art. 20, 21), and would be happy to provide contacts with European research organisations and private companies specialised in the field of standardisation and certification in order to facilitate mediation between Chinese and European organisations on mutual recognition of standards and certification.

Both EREC and EWEA thank the Chinese authorities for sharing experiences made in Europe and would like to offer further advice in the process of setting up the detailed regulations complementing the law.

Brussels, 24th September 2004