The politics of designing regulatory frameworks for RES-E

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Conflicts in the EU over regulatory frameworks for RES-E

- Proposal for RES-E Directive 2001/77/EC
- 2008 Proposal for RES-E directive

In both cases, similar conflicts opposed similar coalitions, arguments and interests

on the issue of RES-E support schemes and the Commission‘s push for certificate trading

My questions:

- Why is Commission insisting despite evidence that trading mechanism is not very effective?
- Which other actors are behind this push?
- Can the legitimate Commission goal to facilitate trade in RE be achieved by means other than TGCs/GOs that do not threaten support systems?

2008 conflict centers on guarantees of (GOs)

Directive proposal of Jan. 2008 permits cross-border trading of GOs as TGCs (can be traded separately from physical electricity,are counted for achieving the new obligatory targets)

Art.9 of proposal as result of (botched?) last minute changes allows MS opt-out from trading under certain conditions (art. 9), but would this article would survive a court challenge?

This unstable legal situation threatens highly successful feed-in tariff systems, investment security and more generally target fulfilment

Actor Coalitions in this conflict (overlapping memberships!)

- Coalition A

  TGC and tradable GO supporters
- Coalition B

  Supporters of FiT
- Coalition C

  Advocates of subsidiarity („priority should be to develop and protect sound national policies“)

Coalition A membership (1): TGC and GO supporters

1. Free market ideologists in Commission and elsewhere relying on neo-classical economics Strongholds: DG Enterprise and Industry (Verheugen), DG Competition
2. Environmental economists (also neo-classical), often inspired by/authors of EU ETS (e.g. Jos Delbeke, DG Environment)
3. As legitimators: neo-classical economists in public administrations, also in the media (e.g. The Economist, NZZ, ...)

Coalition A membership (2): TGC and GO supporters

4. Greens (in the US: EDF) and others who prefer this instrument to no support scheme at all when the political situation precludes other choices (Situation in Sweden, Flanders?...)
5. Member states who want to fulfill their targets by trading and accept virtual trading
6. „Friendly regulators“ in clientelistic relationships with power sector (usually Min of Econ Aff staff, some probably also in Commission)
7. Incumbent power producers (except the Spanish) in search of rents for the industry; their associations (EURELECTRIC, EFET; also RECS)

Coalition A arguments (1)

Groups 1-3: believe in superior performance of TGCs despite the evidence

- „According to economic theory“, tradable GOs are most cost-efficient solution, generation will migrate to best locations, competition among RES-E will lower prices, drive deployment and innovation
- TGCs fit best with a liberalised electricity market and will help to keep EU industry competitive

Coalition A arguments (2)

- Background: Neo-classical economists think in terms of abstract models rather than empirically/institutionally; neglect innovation

Groups 6 and 7

- Often will not share these beliefs but use the same arguments („to produce fog“ covering up their interests)

Coalition A: Interests (1)

Groups 1-3

- govern according to best economic insight
- Commission, esp. DG Competition: strengthen EU powers in RES-E area via internal market legislation/harmonisation

Group 5 (Member states eager to fulfill targets via trade, if possible also virtual trade): Trading cheaper/easier than RES-E build (UK: save 1.6 – from 6.7bn Euro – by fulfilling target only half by building RES-E, the other half by TGCs; similar interests in Austria, Malta, Luxemburg)

Coalition A: interests (2)

Group 6 („Friendly regulators“ - Stigler)

- maintain clientelistic relationship with incumbents (Min of Econ Aff; DG Enterprise & Industry?)
- build up incumbents that are internationally competitive
- Facilitate incumbent acceptance of full auctioning under post-2012 ETS by compensating them with new rents via TGCs/GOs

Coalition A: interests (3)

Group 7 (Incumbent power producers, their associations)

- secure additional rents from GO trade and generation and disguise them as „windfall profits“ (as in the case of grandfathering carbon certificates)
- keep the reins on RES-E deployment by creating market barriers for new RES-E generators (volatility of certificates, high IRR requirements)
- prevent discussion of external costs of conventional power production by focussing on competitiveness of RES-E and on competiton between RES-E generators

Coalition B Composition: Supporters of FiT

- Member states practicing FiT as a regulatory framework for rapid deployment of RES-E and for setting up an RES-E industry (active: Germany, Spain, Slovenia…?). Often passive due to dominant role of Min Econ Aff
- Renewable energy industry and its associations (esp. EREC)
- Majority of European Parliament
- Many environmental organisations

Coalition B arguments

- FiT has been shown to be superior instrument in practice. Reports of EU (2005, 2008) show that TGC systems combine high prices with low deployment and low innovation (NB: this claim has never been disproven by Coalition A)
- FiT are compatible with international trade of RES-E and other methods of transfer and cooperation (see Turmes report May 2008)
- Tradable GOs are capable of destroying FiT if opt-outs are invalidated by Court (even EFET and EURELECTRIC agree with this!)

Coalition B interests

- European Parl., some Member States and enviro. NGOs want strong, effective and much more comprehensive RES-E policy than the Commission, see FITs as central
- RES-E sector expects greater stability from FiT and from non-TGC methods of international exchanges of RES-E; is presumably concerned about growing strength of incumbents in case of a TGC/tradable GO system

Coalition C: composition (Subsidiarity advocates)

- Majority of member state governments (became clear in July Energy Council), even including TGC countries
- This „silent majority“ came to life in Energy Council in July 2008 when it supported a proposal by Germany, UK (sic!) and Poland to organise flexibility between member states in a way that should not endanger national support schemes

Coalition C: arguments

- Support systems remain a national affair under directive proposal
- Opt-out (art. 9) offers doubtful guarantee of support scheme stability to member states and investors as it is unlikely to hold up in Court
- This deprives governments of ability to achieve the national targets to be laid down by directive

Coalition C: interests

- Member states seek to protect their support systems against what they see as the disruption potential of the draft directive which was stitched together „with a hot needle“ in January 2008
- On this point, even some TGC member states are withholding support from the Commission

Are there instruments to trade RES-E that are less threatening to national support systems and target fulfilment than TGCs?

Trade will become more important due to

- expansion of RES-E
- need for some MS to rely on imports (from within EU or outside)
- need to facilitate imports from Norway, North Africa, possibly other countries

Alternative instruments (Turmes report)

Such instruments are developed in the Turmes report of May 2008 to the EP (am. 49-77).

- Transfer accounting certificates (TACs)

  Can be used on voluntary basis by Member States to accompany physical energy transfers or just for purpose of target accounting
- Statistical transfer between states
- Joint projects
- Joint target compliance

German-British-Polish proposal

- In June 2008, the above three countries in a joint statement at the Energy Council criticised the Commission proposal for putting national support systems at risk via tradable GOs
- also proposed new flexibility mechanisms inspired by those of the Turmes report which met with the approval of the Council majority

ITRE approves Turmes report on 11 September 2008

- Approval by a large majority (50 in favour, 2 opposed) after Turmes dealt with about 2000 amendments
- Turmes expects that EU governments will accept the flexibilityl mechanisms outlined in his report since they are largely identical with the earlier joint proposal by UK, Germany and Poland

First thoughts on what EU legislation should do?

1) Base legislation on empirical research regarding support systems, not trust abstract models
2) Give central place to need for innovation
3) Facilitate national support systems that
- encourage rapid deployment of RES-E
- facilitate trade in RES-E in ways that do not threaten national support systems
- channels innovation rents to innovators, avoid rent flows to those who resist innovation
- avoids granting positions of power over RES-E development to economic actors not known for their interest in RES-E promotion

4) Stimulate research, development and market creation of a number of RES-E technologies at different levels of development in a parallel fashion