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Recommended Citation

Kazarian, Ursula. "Renewable Energy Technologies: A Promising Energy Alternative." *Sustainable Development Law & Policy*, Spring 2007, 37, 75.

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RENEWABLE ENERGY TECHNOLOGIES:

A PROMISING ENERGY ALTERNATIVE

by Ursula Kazarian*

Creating legal instruments that incorporate renewable energy policy interests is a complex, but not insurmountable, challenge. Renewable energy technologies (“RETs”) provide clean, safe, and lasting energy supplies. The finite nature of hydrocarbon fuels, the controversy surrounding carbon sequestration, the debate over “clean coal,” and the safety and waste management concerns regarding nuclear energy have resulted in RETs emerging as promising alternatives. Successful examples of the implementation of RETs demonstrate the importance of integrating this technology into local, national, and international legislation.

The traditional emphasis of energy law has been to ensure an adequate supply of energy, without adequate considerations of efficiency, equity, and ecology.¹ While the international community increasingly views RETs as strategic solutions to issues such as climate change, rural electrification, energy security, and environmental degradation due to hydrocarbon fuel burning,² incorporating RETs in national projects will present a challenge. International legal institutions provide the global community a venue for strategic dialogue and goal-making; however, the power of technology development and legal enforcement remains in the control of national and local governments.

Numerous developed countries are beginning to alter their energy portfolios to incorporate more RETs. For example, between 1900 and 2003, RETs presence in Germany’s electric power generation fuel mix grew from less than three percent to almost nine percent.³ This German increase in utilization of RETs occurred during a net national electricity consumption growth of about five percent. The United States has also shown promise in adopting more RETs when the Department of Energy announced their aim to cut federal energy consumption levels through the use of more efficient technologies. On the sub-national level, California Governor Arnold Schwarzenegger signed into law the Global Warming Solutions Act (also known as “AB 32”) on September 27, 2006, which is designed to limit the state’s global warming emissions to 1990 levels by 2020, and it is publicly anticipated that California will pioneer many new clean and efficient energy technologies to comply with the limits.⁴

Developing and newly-developed countries are also adopting progressive national laws to promote the increase and integration of RETs. For example, in February 2005, the national legislature in China approved the country’s first renewable energy law, which requires power grid operators to purchase resources from registered renewable energy producers.⁵ It also encourages oil distribution companies to sell biological liquid fuel and offers financial incentives, such as a national fund, to



Courtesy of Allan Kilgour

A Cooling Tower for a Geo/Thermal Power Plant in New Zealand.

foster renewable energy projects.⁶ In India, the government has worked with the World Institute for Sustainable Energy and the Renewable Energy and International Law Project to develop a model renewable energy law, which aims to help the country meet its energy security, environmental, and economic development objectives.⁷

Regardless of the importance of national implementation, international legal institutions can play a significant role in facilitating the national promotion of RETs, including deployment and exports. For example, domestic subsidies for RETs development are currently not actionable under World Trade Organization (“WTO”) law. However, modifications can be made during future Doha Round negotiations regarding environmental goods and services by targeting the removal or lowering the barriers to trade in RETs.⁸ Additionally, RETs could be acknowledged and incorporated into standing treaties, and clearly and thoroughly addressed in the language of new international agreements and treaties.⁹

Thus, International legal institutions have the potential to play a significant role in facilitating the national promotion of RETs.

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¹ IUCN.org, The World Conservation Union, Energy Law and Sustainable Development, at vii, *available at* <http://www.iucn.org/themes/law/pdf/documents/Energy-Law/Energy-PUB-prelims.pdf> (last visited Apr. 7, 2007).

² *See generally* World Summit on Sustainable Development, Aug. 26 - Sept. 4, 2002, *Plan of Implementation the World Summit on Sustainable Development (The Johannesburg Plan of Implementation)*, U.N. Doc. A/CONF.199/20 (Sept. 4, 2002).

³ The Joint Global Change Research Institute, *Renewable Energy Policy, in GERMANY: AN OVERVIEW AND ASSESSMENT (2005)*, *available at* <http://www.globalchange.umd.edu/energytrends/germany/6> (last visited Mar. 3, 2007).

⁴ *See* RenewableEnergyAccess.com, Landmark Global Warming Law Opens Doors for Renewable Energy, <http://www.renewableenergyaccess.com/rea/>

[news/story?id=46095](http://www.renewableenergyaccess.com/rea/news/story?id=46095) (last visited Mar. 3, 2007).

⁵ TerraDaily.com, *Greenpeace Hails China's First Renewable Energy Law* (Mar. 1, 2005), <http://www.terradaily.com/2005/050301023815.ovoszi4.html> (last visited Mar. 3, 2007).

⁶ TerraDaily.com, *id.*

⁷ *See* Renewable Energy and Energy Efficiency Partnership, *A Renewable Energy Law for India*, *available at* <http://www.reeep.org/index.cfm?articleid=1320&ros=1> (last visited Mar. 3, 2007).

⁸ *See* The Renewable Energy and International Law Project, Policy and Regulation, at 6, *available at* <http://www.reeep.org/index.cfm?articleid=1341> (last visited Mar. 3, 2007) [hereinafter REIL].

⁹ REIL, *id.* at 7.
