



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Directorate C - New and renewable sources of energy, Energy efficiency & Innovation
C.1 - Regulatory policy & Promotion of renewable energy

Brussels, **24 FEB. 2011**
ENER C1/AH/ss D(2011) 89630

Mr [REDACTED]

Email: [REDACTED]

Dear Mr. [REDACTED]

Thank you for your e-mail of 29th December 2010 on the Spanish solar photovoltaic tariff revision.

I appreciate your concerns regarding the changes in the Spanish renewable energy legislation. The Commission has in the past evaluated and commented on national schemes supporting the generation of electricity from renewable energy sources¹. In the last of these reports the Commission stated that "stability is a critical feature of an effective system, in order to facilitate investment. Consequently, "stop-and-go" regimes that run out of budget, as well as policy and rule changes hamper the development of renewable electricity"². That is in line with the general EU policy of seeking to establish stable and predictable investment conditions for renewable energy, which is the main aim of the Renewable Energy Directive.

Regarding renewable energy support, the Energy Strategy 2020³ also underlines, that "retroactive changes to support schemes should be avoided given the negative effect such changes have on investors' confidence".

The new Renewable Energy Directive⁴ sets mandatory national targets for the share of renewable energy sources in energy consumption for 2020. It also requires Member States to introduce measures effectively designed to ensure that the share of energy from renewable sources increases as required by the Directive. Such measures would normally include financial support schemes, which are likely to be necessary in order to reach the targets. However these schemes are not regulated in detail by the Directive

The Royal Decree 1565/2010 of 19 November 2010 has modified PV tariff levels for the new installations, and this revision does not have a retroactive effect. The change in the adopted legislation for the existing plants is that from year 26 no subsidy will be given.

¹ COM(2004) 366 final; COM(2005) 627 final; SEC(2008) 57 final; COM (2009) 192 final

² COM (2009) 192 final p. 4

³ COM(2010) 639

⁴ OJ L140/16 5.6.2009

In addition, Royal Decree Law 14/2010 of 23 December 2010 introduced some additional measures limiting the yearly electricity production from PV plants entitled to supported tariff under the special regime. These limitations are linked to the number of operating hours per year.

The Commission does not dispute that adjustments in the tariff levels and/or cost reductions due to the technical development might be justified over time. However, we are convinced that such adjustments should be made for the future and thus in a predictable way rather than giving it a retroactive effect. It should be borne in mind that negative consequences for investor confidence from retroactive changes in the economic conditions for one type of renewable installation may well "spill over" and generate similar effects for other types of installations and in other countries, causing a loss of confidence in the renewable energy regulatory framework at national and European level.

On the basis of the information available to the Commission, we do not however see an indication of a violation of Directive 2009/28/EC. By transposing the Directive (as was required by 5th December last year) the Spanish authorities and ultimately the Spanish courts will have to ensure that the principles of Community law including legal certainty and the protection of legitimate expectations are respected.

Thank you again for informing us of your view on this matter, which will continue to have our full attention.

Yours sincerely,



Hans van Steen
Head of Unit