

- **Report on the conference of 4th November 2005 on «the new French law on energy policies («POPE law»): impact on renewable energies and investment prospects»**

The state of affairs which was described by the various speakers shows that the following elements seem to restrain the development of renewable energies in France:

- The complexity of French statutory law and regulations and its constant evolution: not to mention the provisions which are scattered among various codes, the energy sector is mainly regulated by five statutes (1946, 2000, 2003, 2004 and 2005) and numerous regulations.
- The various authorisations which are required (operating licences, building permits, etc) and their sometimes very complex procedures, as well as the difficulties stemming from connecting issues.
- The economic context: as far as the installations benefiting from the obligation to purchase are concerned, current prices which are favourable to the wind energy but which are insufficient for other sources of renewable energy (photovoltaic and biomass / biogas); no development yet of a French industry.

The POPE law has brought some answers to these questions. But one must wait for the repercussions of its reception by the various actors and, in particular, for the regulations which the Government will take in order to implement it:

- In the POPE law, the Parliament has confirmed its willingness to promote renewable energies. In this respect, Mr Pascal Dupuis (MINEFI/DGEMP) has refused to reconsider the objective of a national production of electricity with a renewable origin to equal 21% of the total national consumption for 2010 – which was recapitulated in the POPE statute. The Industry Ministry will soon communicate its intentions in this respect, upon the publication of the next investment program over a few years, which is planned for 2007.

As far as tenders are concerned, the launch of a new procedure for offshore wind power has been planned for the first quarter of 2006. In this respect, taking into account the failure of the first tender when only one project implementing the necessary qualities had been identified, an amended tender procedure is expected. In addition, the same willingness of the Government to promote renewable energies can be seen in the launch, at the end of 2005, of a tender for biofuel concerning tons 1,800,000 and, in the first quarter of 2006, of another tender for biomass coming from wood or agricultural waste, concerning 300,000 MW.

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Mr Samuele Furfari (Directorate-General for Energy and Transport / European Commission) has also underlined the fact that an action plan for biomass was just about to be launched and that the Commission therefore showed a great interest for projects related to the exploitation of biomass and biogas potentials.

- According to section 109 of the POPE statute, the current statutes will be codified in an Energy Code at the latest in July 2008. To this effect, the Parliament has authorised the Government to proceed by way of Orders (“ordonnances”) and has allowed the Government to amend the current rules in order to secure the respect of the hierarchy of norms and the coherence of the drafting of the rules, so that the state of the law can be harmonised.
- On the contrary, the Statute has not simplified authorisation procedures generally. Thus, the provisions of the statute relating to the Development Zones for Wind energy do not mention the issue of building permits; but the procedures leading to the issuing of building permits have been identified as being paved with many hurdles.

In this respect, Mr Samuele Furfari (Directorate-General for Energy and Transport / European Commission) and Mr Philippe Carli (SIEMENS FRANCE) have expressed their wish to see the creation of a “single desk” where all the procedures relating to the issuing of building permits could be performed. But Mr Pascal Dupuis (MINEFI/DGEMP) has indicated that the creation of such a single desk would be difficult, because of the very diverse nature of the bodies which have to be consulted; and even if such a single desk was created, substantial problems relating to the outcome of these procedures would remain, in particular the opposition of a part of the population.

- In addition, further difficulties relating to the installation of wind turbines arise, such as the – so far not verified - assertion of a risk of disrupting radars, notably meteorological radars, as was underlined by Mr Philippe Bruyère (ESPACE EOLIEN DEVELOPPEMENT).
- We shall soon see whether the creation of new Development Zones for Wind energy, on the initiative of local bodies and upon decisions taken by Prefects (“Préfets”), shall eventually lead to the takeoff of the wind energy industry in France. But the potential consequences of such a measure seem difficult to ascertain at the moment, pending the regulations to be adopted in order to accompany the actions to be decided by Prefects (“Préfets”), who will eventually decide about the creation of Development Zones for Wind energy (“ZDE”).

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Furthermore, it seems that the objective of a national production of electricity with a renewable origin to be equal to 21 % of the total national consumption for 2010 will only be met if accompanied by a significant development of the wind energy sector. How will the Government react if the ZDE system does not work? Mr Pascal Dupuis (MINEFI/DGEMP) has advocated to make use of the two-years transitional period to survey the implementation of ZDEs and has not excluded to promote them actively. If, at the end of this transitional period, the anticipated result is not met, then other measures should be taken, including legal measures.

- Mr Ralph Aner (IKB Deutsche Industriebank AG, Paris subsidiary), has indicated that, thanks to the removal of the MW 12 threshold relating to the obligation to purchase, the financing of wind energy projects should be favoured. Mr Björn Mummentey (NORDEX FRANCE) and himself have underlined the important capacity of wind power energy in France.
- The law has not brought any precision relating to the procedure of connecting the decentralized production installations to the networks of transportation and distribution. It should nevertheless be underlined, in this respect, that the procedure which was put into place by eRD and RTE, and which was introduced very clearly by Mr Gilles Bernard (eDF Réseau Distribution – eDF Distribution network), has simplified the management of waiting queues and therefore accelerated connectings.
- Mr Marc Jedliczka (CLER – HESPUL) has underlined the complexity of the general system of photovoltaic for consumers willing to install such equipment. He has addressed, among others, the issues of the contracts to be concluded with the network managers, of invoicing problems and of the readability, for consumers, of the rules relating to the prices. In addition, it is unfortunate that the hardly favourable conditions of the French market do not allow for the development of French companies, which are often pioneers in this field and have a great experience and demonstrate a technological lead.
- As far as the prices of the obligation to purchase are concerned, section 36 of the POPE law, which will come into force on 31st March 2006, provides that a grant taking into account the contribution to the implementation of the statutory objectives may be added to the investment and exploitation costs which are avoided by EDF (or non nationalised distributors), if the return on the money immobilized in the installations benefiting from the obligation to purchase do not exceed **a normal return on investment funds**. Because the legal and economic meanings of this concept of a “normal return” are uncertain, the Government and the main players in the different renewable energy sectors have decided to re-examine all the current prices. Negotiations are currently taking place and should lead notably to an increase of the prices

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of photovoltaic and of biomass / biogas, which were deemed to be insufficient (addendum: Mr François Loos, the Industry Minister, has announced on 14th November an increase in the purchase price of solar electricity from 2006 onwards. The price will be Euros 225 per MWh (a 50% increase) for individual equipments, Euros 305 per MWh (a 100% increase) for collective equipments and Euros 305 per MWh in unconnected areas, offshore French subdivisions (“DOM”) and Corsica).

- Mr Bernard Chabot (ADEME) has made a very clear introduction to wind energy prices and to their predictable evolution under the current regulations. He has underlined the fact that the decrease of the cost-effectiveness of wind energy projects could become important when the accumulated power of wind turbines which are the object of contracts would exceed MW 1,500 (which may happen in 2007). He has highlighted the characteristics of efficiency and of equity of the French system of support.

As for Mr Philippe Carli (SIEMENS FRANCE), he has underlined the necessity to guarantee competitive prices for renewable energies.

- Finally, Mr Daniel Hallo (public local entity of Dukerque) has underlined the role played by local entities and has regretted that the creation of ZDEs was not a real measure of decentralization, knowing that the power of decision in this respect lays in Prefects (“Préfets”). As for Mr Samuele Furfari (Directorate-General for Energy and Transport / European Commission), he has underlined the necessity to increase the role played by public local entities and their awareness to sustained development.

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