2005

Commentary on Government Incentives to Promote Renewable Energy in the United States by Professor Wang Mingyuan Institute for International Law and Public Policy: 2004 U.S.-China Environmental Law and Policy Roundtable: Comment

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Commentary on *Government Incentives to Promote Renewable Energy in the United States* by Professor Wang Mingyuan

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Professor Wang Mingyuan is a prolific scholar and one of the stellar lights in the rapidly expanding community of Chinese environmental lawyers. In the following article, Professor Wang has addressed what is likely the single most important issue facing not only China and the United States, but the entire world: energy consumption. With rising global temperatures, the melting of the permafrost in western Siberia, and receding glaciers in the Alps, it is becoming ever more obvious that governments in the industrialized and industrializing world need to take effective action to speed the transition from fossil fuels to more environmentally benign sources of energy. It is more than gratifying to see Professor Wang grapple with this issue in such a sensitive and perceptive way. While many in the United States have bitterly criticized China's rapidly expanding reliance upon coal and the failure of the Kyoto Protocol to impose any obligation upon China to reduce carbon emissions, Professor Wang correctly points out that efforts to promote renewable energy in the United States, the world's largest producer of carbon emissions, have faltered over the past decade and a half. Perhaps those who live in glass houses ought to be careful before slinging stones.

Professor Wang, however, did not write the article to criticize United States energy policy. He wrote it and researched it to learn from our example about various kinds of policy initiatives and the conditions that are necessary to spur more movement to renewable forms of energy. He begins with the proposition that

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nation-states have an obligation under the Rio Declaration to pursue sustainable development. Regardless of whether this principle is merely "soft" law or is a ripening form of customary law, it seems rather unassailable to declare that the current generation has a moral and ethical obligation to use the earth's resources in such a way that the quality of life of future generations is not compromised. It is under this prism of sustainability that Professor Wang examines renewable energy policy in the United States.

Professor Wang is very specific when writing about renewable energy. By renewable energy, he means solar power, wind energy, biomass, and geothermal power. He excludes hydropower from the mix because, although it is renewable, it is much less environmentally-friendly than other renewable sources. Large hydroelectric dams interrupt natural stream flows, damage fish and aquatic life cycles, impair water quality, and often flood valuable farmland, wildlife habitat, and scenic or cultural sites.

The article examines at some length the hodgepodge collection of federal statutes and programs that have promoted investment in more environmentally benign kinds of renewable energy. Among the devices he discusses are various kinds of tax credits, accelerated depreciation, grants, loans, mortgage guarantees, funding for research and development projects, and President Clinton's 1999 Executive Order directing federal agencies to obtain 2.5 percent of their electricity from renewable sources by 2005. Professor Wang, however, does not limit his review to federal initiatives; he recognizes that many state and local governments have taken steps to encourage the use of renewables. Consequently, the article explores a number of steps that have been taken in California to spur the transition to greener forms of energy. These measures include a state property tax exemption for active solar energy systems, tax credits for the purchase and installation of solar photovoltaic or wind-powered electrical systems, a requirement that electrical utilities purchase a specified amount of power from renewable sources, and various kinds of state and local rebates. The article even discusses the establishment of the nation's first municipal solar utility in Santa Clara. Under this program, the city government will supply, install, and maintain solar hot water systems for homeowners and businesses that agree to pay an installation fee and a monthly rental sum.

Despite all of these efforts, the pace of the transition to more environmentally benign forms of energy remains sluggish in the United States. In 2003, for instance, only 3.3 percent of the energy consumed in the country came from non-hydro renewable energy sources. Professor Wang attributes this slow rate of progress to an uneven playing field in the United States energy market. Due to continuing strong government financial support for fossil fuels, the market is playing with loaded dice, a game in which renewable energy remains competitively disadvantaged. Thus Professor Wang concludes that without further incentives and greater support for renewable technologies, we will have little success in reducing our dependence on fossil fuel.

Some may think it ironic or an effort in futility to have a scholar from the most rapidly growing source of carbon emissions analyzing policy in the world's largest (and perhaps unrepentant) emitter in an effort to identify policy initiatives to reduce carbon emissions. But I think it is brilliant. Both nations are dependent upon fossil fuels to an extent not found in Western Europe, and both, therefore, face an

extremely difficult challenge in moving to a new, cleaner energy future. Professor Wang's article should lead to recognition that the problem is a multidimensional one, involving not just increased support for renewable energy, but a lowering of artificial supports for carbon emitting technology. The future lies in the development of renewable, sustainable forms of energy, and both nations should start to take the expensive but necessary steps to become world leaders in developing these new technologies.