

## A SNAPSHOT OF THE MEXICAN CLEAN ENERGY OBLIGATIONS SYSTEM

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*ABSTRACT. This article explains the main features of the Clean Energy Obligations Market ('CEOM') and the relevance of the brand new Energy Transition Act (the 'Act'), both enacted as part of the Mexican Energy Reform of 2013. The CEOM is designed to incentivize the sustainable growth of renewable energy capacity by requiring qualified consumers and suppliers to obtain clean energy certificates that represent electricity produced from renewable sources (wind, solar, tidal, geothermal, biofuels, etc.). Although similar mechanisms have been successfully implemented worldwide, they did not achieve success overnight. This article briefly analyzes these mechanisms to highlight certain key aspects that policymakers, in Mexico and elsewhere, should bear in mind when implementing systems like the CEOM.*

*KEY WORDS: Mexican Energy Reform, Clean Energy, Emissions Trading Systems.*

*RESUMEN. El presente documento aborda las principales características del Mercado de Obligaciones de Energías Limpias (el 'Mercado'), así como la injerencia de la nueva Ley de Transición Energética, como una política central de la Reforma Energética de 2013, en México. El Mercado pretende incentivar el incremento en la capacidad de energías limpias exigiendo a los consumidores calificados y suministradores obtener certificados de energías limpias, los cuales corresponden a electricidad producida a través de fuentes renovables (tales como fuentes eólicas, solares, mareomotrices, geotérmicas y bioenergéticas). Mecanismos similares han sido implementados de forma exitosa en diversos países, sin*

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*embargo, su éxito ha sido el resultado de un esfuerzo constante. El presente provee un breve análisis acerca de los aspectos clave que tanto reguladores como legisladores, ya sea en México o en otras jurisdicciones, deben procurar para implementar de forma exitosa sistemas como el Mercado.*

PALABRAS CLAVE: *Reforma Energética, Energías Limpias, Sistemas de Comercio de Emisiones.*

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The Mexican Energy Reform, enacted in August 2013, is expected to significantly expand the nation's electricity sector, resulting in a greater diversity of energy sources and more clean electricity. The Electricity Industry Law ('EIL') and Regulations; the Energy Transition Act (the 'Act'); and the Guidelines for the issuance of Clean Energy Certificates ('Guidelines') include provisions developed to regulate the formation of a new Clean Energy Obligations Market ('CEOM'). This initiative, at least in theory, represents another step in a gradual but steady switch away from the typical Mexican 'command and control' approach to policymaking.

The CEOM has two main objectives: first, to incentivize the use of clean energy as a means to diversify Mexico's energy portfolio.<sup>1</sup> Although it is *not* the intent of this article to explain the benefits of energy diversification, it is worth noting that greater quantity and diversity of energy sources enable countries to better withstand adverse events, environmental restrictions and price volatility.<sup>2</sup> Second, this new mechanism helps promote sustainability and slow climate change by increasing the rates paid by major electricity users in accordance with the Polluter Pays Principle ('PPP').<sup>3</sup>

<sup>1</sup> As of 2012, renewable energy generation capacity amounted to less than 10% of total electricity generation. About 60% of this amount was from a single renewable energy: wind. See *Balance Nacional de Energía 2014*, <http://www.gob.mx/sener/documentos/balance-nacional-de-energia> (last visited Feb. 28, 2015).

<sup>2</sup> Ken Costello, Diversity of Generation Technologies: Implications for Decision-Making and Public Policy, vol. 20, no. 5, *The Electricity Journal*, (2007), at 11-21.

<sup>3</sup> Both international agreements ratified by Mexico and national law embrace the Polluter Pays Principle. Remarkably, the Principle 16 of the United Nations Rio Declaration Relative to Environment and Development, and Article 15, section IV of the General Law of Ecological Balance and Environmental Protection, interpret this principle in two ways: (i) polluters should bear the cost of their polluting activities; and (ii) environmental protection should be incentivized.

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