

# Major Economies Business Forum

on Energy Security and Climate Change



## Major Economies Business Forum: Predictable Regulation

### KEY MESSAGES

- The construction of new energy facilities and infrastructure is needed on a very large scale to address energy security and climate change.
- Siting and building energy infrastructure projects in many countries is a very complex and onerous process.
- These regulatory processes can be very inefficient, with multiple layers of over-lapping jurisdictions. Regulatory inefficiencies create an unpredictable investment environment that can delay necessary projects.
- Regulatory predictability allows business to plan and invest with greater confidence.

- Business does not expect absolute regulatory certainty, but businesses everywhere have an interest in efficient, fair, and predictable regulatory and permitting schemes that protect the environment and ensure robust public input.
- Global markets and multilateral trade systems are important avenues for the deployment of technology and investment, and poorly-designed regulatory environments also can impact the diffusion of advanced technologies.
- International markets function best with fundamental enabling frameworks that include: rule of law; honoring contracts; just and impartial judicial systems; stable fiscal and policy regimes; free and open markets; and protection of intellectual property.
- The importance of predictable regulatory environments has great relevance to the work of the Technology Executive Committee, and we encourage the TEC to explore the importance of regulatory transparency and predictability.

## BACKGROUND

The construction of new energy facilities and infrastructure is needed on a very large scale to meet growing global demand, improve energy security, promote economic growth and development, and address greenhouse gas emissions.

Energy infrastructure systems require massive amounts of new investment. Siting and building energy infrastructure projects in many countries can be a very complex process. Energy project sponsors often must navigate a complex web of regulations to ensure government requirements are properly evaluated and environmental impacts are considered and addressed.

In many instances, however, these regulatory processes are inefficient and have multiple layers of over-lapping jurisdictions, in many cases also cross national borders, all of which can lead to an unpredictable regulatory environment. Delays resulting from regulatory

unpredictability can impact on national and international progress in a number of ways, stifling investment and the diffusion of new technologies.

It is increasingly clear that the time needed to make a decision to proceed, or to reach a decision not to proceed, with of an energy or infrastructure project simply takes too long. Indeed, as countries move to build up, modernize, or change substantially their energy infrastructure and systems, delays driven by broken regulatory systems and “Not in my backyard” sentiment continue to delay and in some cases stop entirely energy projects of all types from going forward.

The energy business is a long lead-time, capital-intensive industry. The world’s demand for more and more energy compels business to move ahead on projects that will take years to finance and complete. In particular, integrating low-carbon technologies like solar and wind power on a

broad scale poses significant infrastructure challenges, including the use of more intelligent energy systems.

It is difficult, however, to raise the capital necessary to support capital intensive energy projects if large regulatory risks are entailed and, as a result, the yield on investment is a decade or more in the future. Lengthy, excessive and unnecessary regulatory delays and roadblocks will only increase costs that may be passed on to consumers, prolong imbalances of supply and demand, and imperil access to clean, affordable energy and economic progress.

## U.S. CASE STUDY

Real-world economic losses from regulatory delay can be quite substantial, as a recent study sponsored by the U.S. Chamber of Commerce shows. The Chamber study took a look at the number and types of energy projects being delayed across the United States and estimated the potential loss in economic value of these delays.

The U.S. Chamber's first-of-a-kind study began with a "snap shot" of [energy projects being delayed](#) as of March 2010. In all, 351 proposed solar, wind, wave, bio-fuel, coal, gas, nuclear and energy transmission projects were identified, 45% of which were renewable energy projects.

An [economic analysis](#)<sup>1</sup> found that successful construction of all of these 351 projects

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<sup>1</sup> Pociask, S. and J. Fuhr Jr. *Progress Denied: A Study on the Potential Economic Impact of Permitting Challenges Facing Proposed Energy Projects*. TeleNomic Research, LLC (Commissioned by the U.S. Chamber of Commerce

could produce a \$1.1 trillion short-term boost to the economy and create 1.9 million jobs annually. Moreover, these facilities, once constructed, would continue to generate jobs because they operate for years or even decades. The Chamber's analysis estimates that, in aggregate, each year the operation of these projects could generate \$145 billion in economic benefits and involve 791,000 jobs.

Regulatory inefficiencies, permitting delays persist, and NIMBY are creating serious marketplace uncertainties, which can drive investors to opt not to finance new major construction projects or pull out of previous financial commitments.

## BUSINESS PERSPECTIVE ON REGULATORY PREDICTABILITY

Long-term considerations—design, finance, cost recovery, and product price, for example—affect planning and investment decisions for energy supply, infrastructure, and major end-use systems with lifetimes measured in decades. Long-term investments such as these must always account for uncertainty.

Business routinely deals with uncertainty in all investments and addresses these, for example through design, financing, diversification, insurance, or by postponing decisions while awaiting more clarity. For many current investments and decisions on infrastructure, planners and decision makers already must consider market,

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in Conjunction with its Project No Project Initiative). March 10, 2011. Available at: [http://www.projectnoproject.com/wp-content/uploads/2011/03/PNP\\_EconomicStudy.pdf](http://www.projectnoproject.com/wp-content/uploads/2011/03/PNP_EconomicStudy.pdf).

technological, and regulatory outlooks well beyond 2012.

Regulatory predictability allows business to plan and, where possible, adjust to new circumstances and market conditions. However, poorly designed regulations may dampen investment. Over the long run, unworkable regulation can create the need for exemptions or modifications that in turn create greater unpredictability.

Business does not expect absolute regulatory certainty. In an issue as long-term and complex as climate change, that may not be realistic or even desirable, as governments and business must be able to respond to new information and experience, which could include unforeseen consequences of regulation or evolving priorities. Nevertheless, businesses everywhere have an interest in efficient, fair, and predictable regulatory and permitting schemes that protect the environment and ensure robust public input.

In general, predictable regulatory environments will have certain features that business needs. At a minimum, they should be cost-effective, minimize trade barriers, have clear processes and procedures, and provide opportunity for input from stakeholders. In this respect, it is also important that different parts of regulatory frameworks are harmonized and coordinated to the greatest extent possible to avoid unwanted side effects arising from overlapping or inconsistent regulation.

Global markets and multilateral trade systems are important avenues for the deployment of technology and investment, and poorly-designed regulatory

environments also can impact the diffusion of advanced technologies to developing countries.

International markets function best with fundamental enabling frameworks that include: rule of law; honoring contracts; just and impartial judicial systems; stable fiscal and policy regimes; free and open markets; and protection of intellectual property. It is hard to imagine transparent and predictable regulatory systems emerging in the absence of these fundamental building blocks.

## CONCLUSION

At the end of its September 2009 meeting in Washington, DC, the Major Economies Business Forum on Energy Security and Climate Change (BizMEF) made the following [recommendation](#): “We urge our national governments to streamline siting, permitting, and other regulatory requirements so that needed energy infrastructure can move forward with greater predictability.”<sup>2</sup> Nothing has happened in the intervening years to alter this view.

Current regulatory uncertainty and liability issues in many countries discourage the development of clean energy alternatives and technologies. Failure to address regulatory shortcomings will slow access to energy, stifle job creation and economic growth, and prevent technology diffusion.

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<sup>2</sup> Declaration of the Major Economies Business Forum on Energy Security and Climate Change. September 2009. Washington, DC. Available at: <http://www.majoreconomiesbusinessforum.org/pdfs/BizMEF%20FINAL%20Declaration%2022-9-09.pdf>.

Simplifying and streamlining regulatory reviews and approvals, engaging stakeholders early in the process, reducing duplication among different levels of government, and managing litigation are all approaches that can contribute to a more predictable regulatory environment.

The rule of law, honoring contracts, just and impartial judicial systems, stable fiscal and policy regimes, free and open markets, and protection of intellectual property are prerequisites for a regulatory framework that can attract business investments.

The importance of predictable regulatory environments to achieving national and international goals is an issue that has not received a great deal of attention but has great relevance to the work UN Framework Convention on Climate Change in general and the Technology Executive Committee in particular.

Specifically, the TEC has been charged with, among other things, analyzing policy,

recommend actions to address barriers to technology diffusion, and consider actions to accelerate mitigation actions. We encourage the TEC to highlight the importance of stable, predictable regulatory environments in its work, especially as it relates to technology diffusion. We encourage the TEC to explore the importance of regulatory transparency and predictability

Regulatory predictability and fundamental enabling frameworks are extremely important, but by themselves they do not constitute sufficient conditions for promoting business investment. Large scale commitment of capital, however, will depend in large part on an international agreement that provides credible and durable policy direction.

BizMEF has supported and continues to support a comprehensive international agreement that provides a clear framework for international co-operative action in the areas of mitigation, adaptation, technology, and finance.

Business Institute for Sustainable Development (Korea)  
BusinessEurope  
BusinessNZ  
Canadian Council of Chief Executives  
China New Energy Chamber of Commerce  
Confederation of British Industry  
Confederation of Indian Industry  
Confederazione Generale dell' Industria Italiana  
Dansk Industri  
Federation of German Industries – BDI  
Iniciativa para el Desarrollo Ambiental y Sustentable — IDEAS (Mexico)  
Mouvement des Entreprises de France  
National Confederation of Industry (CNI) (Brazil)  
Nippon Keidanren (Japan Business Federation)  
Turkish Industry and Business Association (TUSIAD)

## **ABOUT BIZMEF**

The Major Economies Business Forum on Energy Security and Climate Change (BizMEF) is a partnership of major multi-sectoral business organizations from major economies. Modeled after the government-to-government Major Economies Forum, BizMEF is a platform for these groups to:

- promote dialogue and exchange views on climate change and energy security across a broad spectrum of business interests including major developed, emerging, and developing economies;
- highlight areas of agreement among participating organizations on the most important issues for business in international climate change policy forums; and
- share these views with governments, international bodies, other business organizations, the press, and the public.

Organizations that have participated in BizMEF meetings represent business groups in Australia, Brazil, Canada, China, the European Union, Denmark, France, Germany, India, Italy, Japan, Mexico, New Zealand, South Africa, South Korea, Turkey, the United Kingdom, and the United States. Collectively, BizMEF organizations represent more than 25 million businesses of every size and sector. Because BizMEF partnering organizations represent a broad range of companies and industries—including energy producing and consuming companies as well as energy technology and service providers—the partnership is able to provide robust and balanced views on a range of issues.

For more information on BizMEF, please visit our website at:  
[www.majoreconomiesbusinessforum.org](http://www.majoreconomiesbusinessforum.org).