

LAWYERS FEAR TAX RISES COULD HALT PORTUGUESE ENERGY M&A BOOM

Posted on 04/01/2017

€900m

Amount paid by First State Wind Energy Investments to acquire Enel Green Power's Portuguese subsidiary Finerge Gestao de Projectos Energeticos.

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International investors, including pension funds, are targeting energy assets, particularly renewables, but a review of government subsidies could slow deal activity

Though the Portuguese energy sector has generated some significant M&A transactions involving major international investors, corporate lawyers in Lisbon are concerned that proposals to increase taxes on energy companies could jeopardise further deals.

"In Portugal, we're seeing M&A activity in different segments of the energy sector such as renewables, distribution and commercialisation," says Manuel Santos Vítor, partner at PLMJ. Similarly, Marcos Sousa Monteiro, partner at Linklaters in Lisbon, says that while energy sector activity is not at 2013 levels, there are still a considerable number of transactions taking place in the area of renewables. "Despite the market being more dynamic a couple of years ago and the volume of transactions having decreased, we're still busy across the board in terms of renewables," he explains.

As to the type of investor interested in the Portuguese energy sector, Francisco Brito e Abreu, partner of Uría Menéndez-Proença de Carvalho, says that the market has been attracting clients ranging from international investors to pension funds, in addition to energy sector companies. He adds: "Domestic investors have also been very active chasing opportunities related to smaller size deals." Francisco Santos Costa, partner at Cuatrecasas, Gonçalves Pereira, highlights the significant appetite of global institutional investors for assets in the Portuguese energy sector. As evidence, he cites Marubeni and Toho Gas' acquisition of a 22.5 per cent stake in Galp Energia's wholly owned gas distribution company Galp Gás Natural Distribuição, as well as the sale of Iberwind to Li-ka-Shing

Group for €324 million. Other significant deals include the sale of Enel Green Power's subsidiary Finerge Gestao de Projectos Energeticos (which runs wind farms with a total capacity of 642 MW) to First State Wind Energy for €900 million. Sousa Monteiro says the Galp deal demonstrates that the Portuguese energy sector is now seeing a different sort of investor. "On the one hand you have renewables, but on the other hand there are now infrastructure firms interested in a regulated asset base such as gas," he says.

Cause for concern?

However, despite this favourable investment environment, lawyers are now concerned that the Portuguese government might decide that the renewables sector and energy companies have been getting too great a return on their investment. "It would be very detrimental to destroy this positive outlook by imposing new taxes on the energy sector, as the government is considering," says Santos Vitor. "This would not only disappoint existing stakeholders but cause others not to invest in Portugal." Sousa Monteiro says Portugal cannot afford such measures. "So far, the government has had a very conscious investor-friendly approach, but they might start to review situations involving tariffs and subsidies that could be perceived as creating a double income for investors," he adds. In terms of the outlook for energy-related M&A, Santos Vitor hopes the government will focus on "further opportunities for growth and development as previous governments did". Meanwhile, Santos Costa believes the Portuguese energy market will remain attractive to foreign investors looking to acquire renewables portfolios as long as there is a low interest rate environment and a stable regulatory framework. Sousa Monteiro is also optimistic. "At the end of 2016, nothing has been substantially amended in the way of measures putting us in jeopardy, but we're at a stage in the process where we need to consider what the Government might do next."