

# THE POLICY BEHIND PORTUGAL'S RENEWABLES REVOLUTION - SERRA LOPES, CORTES MARTINS & ASSOCIADOS

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## **Despite procedural, technical and environmental challenges, some say that Portugal retains the political will to remain a pioneer in renewable energy production**

Environmental concerns have a strong influence over the viability of renewable energy schemes, and in Portugal, as elsewhere in Europe, projects may ultimately be dependent on public policy decisions, says Claudio Monteiro, partner at Serra Lopes Cortes Martins & Associados in Lisbon.

'The energy sector legal framework is inevitably aligned to this strong public influence, and the expansion of many renewable energy processes in recent years directly reflects those areas identified as a Government priority.'

Las preocupaciones medioambientales tienen una enorme influencia en la viabilidad de los programas de energías renovables y en Portugal, como en la mayoría de los países europeos, los proyectos dependen de la política, dice Claudio Monteiro, socio de Serra Lopes, Cortes Martins & Associados.

Future developments will inevitably reflect the same influences, he says. For example, following the approval of the Government's National Dam Plan, procurement procedures are imminent for the construction, maintenance and management of several new dams.

There may now be a downsizing of wind power plant construction relative to the 'hype' of recent years, but nonetheless the combined impact of all renewable programs is expected to increase renewable energy production up to 45% of Portugal's total electricity output by 2010.

Environmental considerations and administrative approval processes for new energy production projects inevitably have the potential to delay projects, however the Portuguese legal framework acknowledges a general principle that any negative impact may be accepted in light of a superior public interest, says Monteiro.

'This kind of cost-benefit analysis has featured in many of the most important decisions over the construction of production facilities in recent years, notably for hydro and wind power plants. The viability of many schemes has largely been made possible because of the political will to support them.' Nonetheless, the approval process may still be delayed because of a lack of effectiveness and efficiency of licensing procedures, he says – the result of a lack of legal and technical awareness among administrative bodies employees.

'Additionally, public bodies responsible for environmental issues can easily, and do, successfully interfere with the licensing of projects, not only for environmental impact assessments, but every time the law demands a mandatory opinion from them.'

What is required to remedy such barriers is an increase in public technician's expertise, says Monteiro. 'Often the dismissal of requests for a project licence is supported by an inadequate statement of reasons. Only by overcoming such human resources problems can a grounded judgment be made of the quality of the legal framework.'

Documentation issues are also among those that commonly confront energy projects, particularly with regard to the sale or purchase of energy production plants or facilities, he says.

'The loss, or defective nature, of the documentation issued by the authorities relating to environmental compliance often presents challenges. But another problem is the lack of legal framework whenever a client aims to implement an original, or at least not so ordinary, project. Portuguese laws often do not have sufficient flexibility while the relevant authorities are often also not very keen to help.'

The result is that promoters behind imaginative schemes are often led towards a public procurement procedure, where despite their initiative, a project may struggle to find competitive advantage.

An issue also regularly faced relates to the licensing and construction of the power transmission lines that link new power plants to the national grid system, says Monteiro.

'The public electrical grid is managed and maintained under a concession contract, but the manager does not however acknowledge themselves as responsible for promoting, in any way, the connection of power plants to the public network, despite of compulsory purchase powers granted by law.'

A lack of collaboration, especially in promoting the purchase of transmission line sights, means that promoters often have themselves to establish direct contact with landowners, bringing the potential for scheduling and work delays, as well as impacting negatively on project financing.

'New technologies invariably raise new environmental and procedural issues but despite the evident internal challenges, Portugal remains a pioneer in renewable energy promotion,' says Monteiro.

'The pilot tidal wave power scheme at Aguçadoura is a publicprivate partnership, while solar energy

plants continue to act as important economic anchors in some of Portugal's poorer regions – a fact not forgotten by the Portuguese Government.'