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THE EUROPEAN ENERGY HANDBOOK 2013

SECTOR SURVEY
SEVENTH EDITION



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INTRODUCTION

I am delighted to introduce the 2013 edition of "The European energy handbook" which is presented in an updated format. The 2013 edition gives an in-depth survey of current issues in the energy sector in 41 European jurisdictions.

The review includes a summary of each legal and regulatory energy framework and analyses issues such as industry structure, third party access, the framework applying to use of systems both at the transmission and distribution levels, market entry, nuclear power and cross-border interconnection. Authors have given special attention to the status of the transposition and implementation of the Third Energy Package and the Climate Change Package into national law.

For the first time, the national chapters include details regarding the energy trading regimes and, in those jurisdictions with significant upstream oil and gas activities, an overview of the main features of the legislative features of the upstream regime.

In addition to contributions for the European Union, France, Germany, Spain, Russia and the United Kingdom from our own offices, this year we have contributions from Schönherr (*Albania, Austria, Bulgaria, Croatia, Czech Republic, Hungary, Montenegro, Romania, Serbia, Slovakia and Slovenia*), Stibbe (*Belgium and the Netherlands*), Karanovic-Nikolic (*Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia*), PwC Legal / Landwell (*Cyprus*), Kromann Reumert (*Denmark*), Raidia Leijns & Norcous (*Estonia, Latvia and Lithuania*), Roschier (*Finland*), Kyriakides Georgopoulos & Daniolos Issaias (*Greece*), Arthur Cox (*Ireland*), Studio Legale Legance (*Italy*), Linkage and Mind (*Kazakhstan*), Arendt & Medernach (*Luxembourg*), Buttigieg, Refalo & Zammit Pace Advocates (*Malta*), Arntzen de Besche Advokatfirma AS (*Norway*), WKB Wierciński, Kwieciński, Baehr (*Poland*), Esquivel Advogados (*Portugal*), Advokatfirman Vinge (*Sweden*), Homburger (*Switzerland*), Hergüner Bilgen Özeke (*Turkey*), BBA//Legal (*Iceland*) and Sayenko Kharenko (*Ukraine*).

Although the Third Energy Package and Climate Change Package have now entered into force, not all Member States have transposed the directives into national law and the European Commission has referred a number of Member States to the European Court of Justice for either partial or complete failure to implement the same.

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From a European policy perspective, the European Commission and the Council have underlined the importance of completing the internal energy market by 2014. However, given the current progress (or lack thereof) in the transposition of the Third Energy Package, the achievement of this aim seems doubtful. The European energy sector can therefore expect more enforcement actions from the European Commission in 2013. In its work programme for 2013, the European Commission has also announced a new framework for national interventions in the energy sector.

The aim of this framework will be to ensure that:

- adequate investments are effected; and
- market interventions are necessary and proportionate.

In short, 2013 is shaping up to be a busy year of debate and changes in the European energy sector.

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ENERGY LAW IN LATVIA

Recent developments in the Latvian energy market

By Girts Lejins, partner, and Martins Tarlaps, associate, of Raidla Lejins & Norcous, Riga

LATVIA'S BIDDING AREA WITH THE NORD POOL SPOT

It is expected that on 3 June 2013, a separate bidding area for Latvia will be established with the Nord Pool Spot, the leading power market in Europe. The respective application process is in progress, and the Nord Pool Spot initiated a notification period for opening Latvia's bidding area on 15 November 2012. Latvia has an unbundled transmission system operator, AS Augstsprieguma tīkls, from the vertically integrated and State-owned AS Latvenergo in order to ensure Latvia's accession to the Nord Pool Spot. This development is in line with the government's plan to discontinue the sale of electricity at a regulated tariff. It is expected that as of 1 September 2013 all end users (including households) will have to buy electricity at market price.

INTRODUCTION OF SMART METERING

It is expected that necessary regulatory enactments will be passed in early 2013 allowing households using electricity produced from renewable sources ("RES-E") for self-consumption to introduce smart metering. According to the government's plan, households will be allowed to pass the excess energy from their micro-generation units to the grid.

REFORMS IN THE RES-E SECTOR

It is expected that during the course of 2013, a number of legislative amendments will be made in order to reform the RES-E sector in Latvia. It has been concluded by the Ministry of Economics ("MoE") that current support schemes for RES-E producers are inefficient and could eventually have an overwhelming impact on electricity prices in the mid-term. The MoE is now offering to restructure the support for RES-E producers by limiting aid to CHPs and to promote technology neutral support in order to ensure implementation of mature and efficient technologies in RES-E production. In this context, it is also expected that current support mechanisms for producers of biofuels in Latvia will be considerably limited and restructured.

LIBERALISATION OF THE NATURAL GAS MARKET

During the course of 2013, Latvia will make necessary steps to finally implement the Third Gas Directive. Although it is not yet clear which of the TSO unbundling regimes will be adopted in Latvia, recent public announcements by the government officials suggest that unbundling is unavoidable and the natural gas market will be put in line with the requirements of the Third Gas Directive.

OVERVIEW OF THE LEGAL AND REGULATORY FRAMEWORK IN LATVIA

A. ELECTRICITY

A.1 Industry structure

The key market player in the electricity market in Latvia is AS Latvenergo, a fully state-owned joint stock company. According to the Energy Law, a framework law for the Latvian energy sector, AS Latvenergo must remain the property of the state and its privatisation, as well as any other form of alienation, is prohibited. Furthermore, the power plants and the electricity transmission and distribution networks may not be used as collateral or transferred to any entities other than those fully owned by the state or AS Latvenergo.

AS Latvenergo has two subsidiaries that are joint stock companies and fully owned by AS Latvenergo. They are AS Sadales tīkls, a distribution system operator and AS Latvijas elektriskie tīkli a transmission system owner. The independent transmission system operator, AS Augstsprieguma tīkls, is owned by the state directly in order to comply with the ownership unbundling provisions under the EU law, as well as to ensure compliance with requirements for creating Latvia's bidding area with the Nord Pool Spot, the leading power market in Europe.

Since 2006, SIA Enefit, a limited liability company owned by AS Eesti Energia, an Estonian electricity producer, has been operating in the Latvian market by offering electricity to corporate clients. According to the information provided by SIA Enefit, it has continuously increased its market share, which has now reached 10% of the electricity market in Latvia. At the beginning of 2012, SIA Inter RAO Latvia commenced active operation in a local energy market, offering its services to corporate clients. SIA Inter RAO Latvia is a part of Inter RAO UES, a Russian energy company. The market share of SIA Inter RAO Latvia is still very small, but is expected to grow gradually according to information provided by the company itself.

The overall supervision of the electricity industry is performed by the Ministry of Economics. The tariffs and market conditions in the electricity industry are regulated by the Public Utilities Commission (*Sabiedrisko pakalpojumu regulēšanas komisija*), which is in charge of the licensing of generation, transmission, distribution of and trading in electricity. A licence for each of these is necessary where the volume of the relevant activity exceeds thresholds stipulated by the Cabinet of Ministers Regulations on Types of Regulated Public Services. Licences for generation, transmission and distribution of electricity are issued for a period of twenty years, and licences for trading in electricity for a period of five years. The Public Utilities Commission is also in charge of the gas market where similar licences, ie, for transportation, storage and distribution of and trading in the natural gas should be obtained prior to commencement of the respective activity.

The basic legislative framework in the electricity industry consists of the Energy Law, the Electricity Market Law, the Law on Regulators of Public Services, as well as several subordinated regulations issued by the Cabinet of Ministers and the Public Utilities Commission.

A.2 Third party access regime

The Electricity Market Law generally provides for the right of market participants to use the transmission and distribution systems at the tariffs approved by the Public Utilities Commission. Access to the transmission and distribution systems is subject to the market participants complying with the technical requirements of the system operator. The system operator may refuse such access where it lacks the necessary capacity, giving duly substantiated reasons to the market participant within 30 days of receipt of its application.

It has been established that access to the grid by the developers of RES-E produced electricity projects is limited due to excessive connection costs and bureaucratic requirements imposed on those willing to acquire connection to the grid. However, the same could be said in respect of potential customers of AS Latvenergo. Connection costs for newly built production units, for example, are significant thereby substantially increasing the amount of necessary investments.

A.3 Market entry (supply and generation)

Electricity generation, transmission, distribution and supply are all subject to obtaining a licence issued by the Public Utilities Commission unless the applicable thresholds are not exceeded. The issuance of the licence is normally decided within one month. However, that period may, in exceptional cases, be extended to four months.

Where the entrant intends to use the existing transmission and/or distribution system for the transmission of electricity, an agreement needs to be entered into with the operator of the relevant system(s).

In addition, entities intending to engage in electricity supply are subject to requirements relating to the relationship with the electricity end-users, as stipulated by the Electricity Trade and Usage Regulations issued by the Cabinet of Ministers.

A.4 Public service obligations and smart metering

The Electricity Market Law imposes certain obligations on the so-called 'public trader' which is to be established by the entity as having the distribution licence with the largest area of operation and the largest number of users switched to its networks. Amongst other things, the public trader is under an obligation to supply electricity to all captive customers in Latvia, as well as to purchase electricity generated in the cogeneration process and from renewable energy resources.

Currently, smart metering of electricity is not regulated in Latvia. However, it is expected that necessary legislation will be passed in early 2013 allowing the introduction of smart metering for households using renewable energy sources for ensuring, primarily, self-consumption. A monthly offset will take place between the respective household and the distribution system operator, and final settlement between the involved parties will take place at the end of each calendar year.

A.5 Cross-border interconnectors

Within boundaries of the EU, Latvia is interconnected with Lithuania and Estonia via long established grids, as well as with Finland via the so-called Estlink; an undersea cable between Finland and Estonia. In addition, Latvia is interconnected with Russian/CIS electricity network via interconnectors constructed prior to 1990.

According to information from the European Commission, additional interconnectors are planned with Finland via Estlink-2 (expected to come into operation in early 2014), as well as with Sweden via NordBalt; an undersea cable between Sweden and Lithuania. The NordBalt project would also involve electricity network improvement in the Baltic States. It is expected that the NordBalt interconnector will be launched in December 2015.

B. GAS

B.1 Industry structure

Latvia is a natural gas importer, the only supplier of natural gas being AOA Gazprom, a Russian state-owned company. Together with Lithuania and Estonia, Latvia forms the so called Baltic energy island. Though natural gas transportation systems of the Baltic States are mutually interconnected, they lack interconnection with the rest of the EU. Therefore, Latvia and the other Baltic States are fully dependant on the natural gas deliveries from AOA Gazprom.

Although Latvia does not produce natural gas, it benefits from its geological advantage; one of the largest underground facilities in Eastern Europe is situated in Incukalns, Latvia. This storage facility is intensely exploited by AOA Gazprom which stores its natural gas reserves intended for distribution in Latvia, Estonia, North West Russia, and to a lesser extent Lithuania. Thus, Latvia also exports natural gas.

The Latvian natural gas market has so far been a monopoly. The only entity licensed to transport, distribute, store and supply natural gas is AS Latvijas Gaze, a vertically integrated undertaking owned by E.ON Ruhrgas International AG (47.23%), AAS Gazprom (34%), SIA Itera-Latvija (16%), and several minority shareholders (2.77%).

In a similar structure to that of the electricity market, the overall supervision of the gas industry is performed by the Ministry of Economics. The Public Utilities Commission is in charge of the issuance of licences for the provision of public services in the gas industry (refer to section A.1 above for a more detailed description).

The basic legislative framework of the gas industry consists of the Energy Law, the Law on Regulators of Public Services, and a series of subordinated regulations of the Cabinet of Ministers and the Public Utilities Commission. The Energy Law implements the Second Gas Directive. However, it is expected that in 2013 the government will take necessary steps to implement the Third Gas Directive. No decision has yet been made as regards an unbundling regime to be implemented in Latvia. Neighbouring countries, Lithuania and Estonia, have opted for the ownership unbundling model in their respective regulatory enactments.

To date, Latvia has been exercising its rights of derogation under Article 49(2) of the Third Gas Directive which allows Member States qualifying as emerging markets (which, in the implementation of the Third Gas Directive, would experience substantial problems) to derogate from a series of articles of the Third Gas Directive until the relevant Member State no longer qualifies as an emerging market. According to the transitional provisions of the Latvian Energy Law, it was decided that the natural gas market will remain closed until 4 April 2014. The respective date has been determined based on the fact that Latvia received the first commercial supply of natural gas on 5 April 2004 under its first long term natural gas supply contract entered on 18 July 2003.

The transportation, distribution, storage and supply of natural gas as well as the supply, distribution, storage and refilling of liquid natural gas are regulated activities and are therefore subject to obtaining a licence, which is issued by the Public Utilities Commission. The transportation, distribution and storage licences are issued for a period of twenty years, while supply licences are issued for a period of five years.

Since the Latvian natural gas market is a monopoly, no product sharing regime exists for the time being.

On 7 July 2010, the parliament of Latvia passed amendments to the Energy Law which implemented Council Directive 2009/119/EC of 14 September 2009, imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products. The Ministry of Economics has been appointed the central stockholding entity for the purposes of acquisition, maintenance and sale of the oil stocks. The oil stocks are purchased from economic operators (i) authorised to engage in commercial activities with oil products in Latvia or a Member State of the EEA or (ii) which import oil products into Latvia for their own consumption, in each case selected as a result of an open tender procedure.

B.2 Third party access regime to gas transportation networks

The natural gas transportation and distribution networks are operated by AS Latvijas Gaze. Due to the monopoly in the Latvian natural gas market, no third party access to the gas transportation and distribution networks is guaranteed by Latvian law.

B.3 LNG and gas storage

Currently, there are no LNG terminals in Latvia. However, it is expected that a regional LNG terminal will be construed for all Baltic States and Finland in the nearest future, co-financed by the EU. It is very likely that the regional LNG terminal will be situated in Estonia or Finland.

As regards gas storage, Latvia has substantial advantages in this respect (see also section B.1 above). It already operates one underground natural gas storage facility at Incukalns. Recent studies by the European Commission suggest that capacity of Incukalns could be significantly increased, and one more large scale underground storage facility in Dobeles could be eventually constructed. Studies also suggest that in future, storage facilities in Latvia could serve as the facilities of regional importance, serving not only the Baltic States, but also Finland, Poland, and even Norway (for natural gas eventually extracted in the Barents Sea).

B.4 Market entry

Since the transitional provisions of the Energy Law provide for the Latvian natural gas market to remain closed until 4 April 2014, entry to the Latvian natural gas market is not possible until that time.

B.5 Public service obligations and smart metering

This section is not applicable in Latvia.

B.6 Cross-border interconnectors

Please refer to section B.1 above for the information on cross-border interconnectors.

For further integration of Latvia into a common European natural gas network system, a number of conditions have to be met. Firstly, it is essential that the Baltic States have interconnectors with the rest of the EU, eg, interconnectors via Poland, Lithuania or Estonia and Finland. Secondly, interconnection capacity among the Baltic States has to be increased. The respective infrastructure projects are envisaged in the Baltic Energy Market Interconnection Plan.

C. ENERGY TRADING

C.1 Electricity trading

Electricity trading is regulated by the Electricity Market Law and the Grid Code as approved by the Public Utilities Commission, which provides for various trading mechanisms including pooling. Electricity trading is, however, considerably encumbered by the inadequate availability of generation capacities and the insufficient number of market participants in Latvia.

Ensuring the system balance is the responsibility of the TSO. The TSO provides balancing services to the users, electricity generators and DSOs connected directly to the transmission system. The users, electricity generators and other DSOs connected to the distribution system receive the balancing service from the DSO.

Generally, electricity can be traded in the balancing market. As an exception from the general prohibition on engaging in electricity trading, the TSO is entitled to engage in electricity trading for the purpose of balancing.

The supply of electricity to customers is regulated by the Electricity Trade and Usage Regulations issued by the Cabinet of Ministers, which provides detailed regulations regarding the relationship between electricity suppliers and customers. The supply of electricity to captive customers (ie, those electricity users which have not exercised their right to freely select the electricity supplier) is subject to the tariffs approved by the Public Utilities Commission. The tariffs are calculated in accordance with the methodologies approved by the Public Utilities Commission. However, it is expected that the regulated tariff regime will be revoked as of 1 September 2013 when all end users (including households) will have to buy electricity at a market price. Recently, the Ministry of Economics, which is responsible for the energy sector in Latvia, expressed its full support for introducing free market in electricity as of 1 September 2013.

It is expected that on 3 June 2013, the Latvian bidding area with the Nord Pool Spot, the leading power market in Europe, will be implemented. The respective notification period was initiated by the Nord Pool Spot on 15 November 2012. Currently, electricity market players from Latvia have been actively involved in electricity trading in the Estonian bidding area. In addition, AS Latvenergo offers purchasing of electricity for the bourse price, although significant cautiousness of potential purchasers has been noticed due to the price risks involved in such electricity trading. AS Latvenergo has also expressed an opinion that implementation of the Latvian bidding area will not result in substantial changes in the Latvian electricity market.

C.2 Gas trading

Natural gas is supplied to customers only by AS Latvijas Gaze. Supply of natural gas to customers is regulated by the Gas Supply and Usage Regulations issued by the Cabinet of Ministers, which provides detailed regulations concerning the relationship between the gas supplier and customers. Supply tariffs of natural gas are established by the Public Utilities Commission and are calculated in accordance with the methodologies approved by the Public Utilities Commission.

C.3 Introduction of EMIR and REMIT

EMIR and REMIT are not applicable in Latvia.

D. CLIMATE CHANGE AND SUSTAINABILITY

D.1 Climate change initiatives

In most respects, implementation of the EU Climate Change Package is still pending in Latvia. While the New EU ETS Directive has been implemented in Latvia in order to comply with those requirements which

were to be implemented by 31 December 2009, the legislative acts necessary to implement the Renewable Energy Directive and the Biofuel Directive have not yet been finally adopted.

D.2 Emissions trading

The legislative framework for emission trading is provided by the Law on Pollution and the Regulations on Activities with Emission Allowances and Organisation of Pools of Installations issued by the Cabinet of Ministers, which implements the relevant provisions of Directive 2003/87/EC. Until recently, the emission allowances were allocated by the Ministry of Environment, while the Latvian Environment, Geology and Meteorology Agency operated and maintained the issuance and the register of allowances. However, in order to comply with the relevant EU legislation, allowances will be auctioned as of 1 January 2013. With the exception of the EU ETS, there are no national emission trading schemes available in Latvia.

D.3 Carbon capture and storage

Currently there are no existing carbon capture and storage projects in Latvia. Taking into account the costs and complexity of this new technology, the private sector needs economic incentives to apply it. If the cost of this technology is not reduced, it is most likely that these kinds of projects will not be used in Latvia in the near future.

D.4 Renewable energy

The Energy Law generally defines renewable energy resources as wind, solar, geothermal, tidal, and hydro-energy, waste landfill site and sewage treatment plant gas, biogas and biomass (ie, biologically degradable fraction in products, industrial and household waste, agricultural, as well as forestry and similar section residual materials). In practice, two of the most exploited renewable energy resources are wood-pulp and hydro-resources, with wind energy and biogas also being used but in considerably smaller volumes.

The share of energy from renewable sources has always been high in relation to the gross final consumption of energy in Latvia and constituted 34.3% in 2009 and 32.6% in 2010. The target of using 40% energy from renewable sources by 2020, as provided by the Renewable Energy Directive is, however, considered to be ambitious and not easy to achieve.

The Electricity Market Law provides that a certain percentage of the total energy consumption by end users shall be electricity produced from renewable energy sources. The Electricity Market Law requires that the percentage of electricity produced from renewable energy resources is gradually increased so that by 31 December 2010, it is not less than 49.3% of the total electricity consumption. Latest figures from 2010 show that 48.5% of the gross energy consumption in Latvia was RES-E produced electricity. Most of it came from big hydropower plants owned by AS Latvenergo. Other producers of electricity from RES-E (small hydropower plants, biomass cogeneration stations, onshore wind energy plants) provide considerably smaller amount of RES-E produced electricity, though the current legislative framework is aimed at facilitating further growth of electricity production from RES-E (eg, via feed-in tariffs and the allocation of EU Structural Funds).

The Electricity Market Law also requires the public trader (as defined in section A.5 above) to purchase a certain amount of electricity generated from renewable energy sources. The price of such electricity and the amount to be purchased by the public trader are determined by the Cabinet of Ministers each year. Entities producing electricity by using renewable energy sources may acquire the right to sell the produced electricity to the public trader, provided that they have received a special permit from the Ministry of Economy. Such a permit also confirms that the electricity has been produced by using renewable energy sources.

D.5 Biofuel

Production and sale of biofuel is regulated by the Biofuel Law which sets the responsibilities of the government in relation to the production and sale of biofuel, as well as the requirements applicable to economic operators engaged in the biofuel industry. The Ministry of Economics annually assigns a financial aid quota for the minimum amount of biofuel that must be produced during the respective year.

D.6 Energy efficiency

In the field of energy efficiency, the government of Latvia is concentrating on the heat insulation of buildings, as well as on enhancement of the district heating grids. For this purpose, the government is offering various incentives, such as the Climate Change Financial Instrument, state aid schemes for heat insulation of apartment houses and the allocation of the EU Structural Funds for improvement of energy efficiency.

E. NUCLEAR ENERGY

No nuclear energy is generated in Latvia. The only Latvian research reactor, a pool-type IRT-2000 research reactor with a 5000kVt capacity, was shut down in 1998.

The Visagina nuclear power plant project, which is a joint effort of Lithuania, Latvia, Estonia and Poland, is progressing. The government of Lithuania has attracted a joint venture, Hitachi GE Nuclear Energy, as the strategic investor in the Visagina nuclear power plant project. However, this project is an object of political debate in Lithuania, and recent developments there suggest that the Lithuanian government could eventually bring the project to a stop.

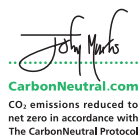
F. UPSTREAM

There are no upstream activities in Latvia.

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