



Gas Regulation

in 26 jurisdictions worldwide

Contributing editors: Florence Ninane, Alexandre Ancel
and Liliana Eskenazi

2013



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Portugal

Mónica Carneiro Pacheco and Marisa Apolinário

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Description of domestic sector

- 1 Describe the domestic natural gas sector, including the natural gas production, liquefied natural gas (LNG) storage, pipeline transportation, distribution, commodity sales and trading segments and retail sales and usage.

The Portuguese natural gas sector has been undergoing a consolidation of the liberalisation started in 2006 with the unbundling of the activities of transport, distribution and supply. Among the most significant events are Decree-Law 230/2012 and Decree-Law 231/2012, both of 26 October, which have completed the transposition of Directive 2009/73/EC by:

- reinforcing the provisions regarding independence and separation of trade activities and the operation of transmission networks;
- attributing new powers to the regulatory entity, reinforcing its independence in carrying out its functions of regulating, monitoring and certifying entities; and
- the decision by the Portuguese government to extinguish the end-user last resort, which is, from a national point of view, a challenge for the organisation and functioning of the energy sector and, from a European point of view, a significant contribution to the consolidation of the internal energy market.

In 2011, the Portuguese government decided to re-privatise part of the share capital of REN – Redes Nacionais, SGPS, SA. Oman Oil Company SAOC and State Grid International Development Limited acquired 15 per cent and 25 per cent, respectively, of the share capital of REN. The completion of the process occurred in June 2012.

There is no domestic production of natural gas in Portugal, although there is some shale gas prospecting taking place at the moment in central Portugal.

Natural gas enters Portugal through gas pipelines (the Campo Maior gas pipeline and, since 2009, also through the Valença do Minho pipeline), or through the Sines Terminal. Natural gas is then transported by high-pressure gas pipelines that run from Leiria-Braga, Leiria-Campo Maior, Setúbal-Leiria, Sines-Setúbal, Braga-Tuy, Portalegre-Guarda, and Coimbra-Viséu. According to REN's information, during 2011, 4.89 billion cubic metres (bcm) of gas were transported through the national network. In total, there were 1,267km of gas pipelines at the beginning of 2011.

Natural gas from Nigeria or from the spot markets arrives at the LNG Terminal at Sines transported by tankers. At the terminal the gas is stored and later regasified for introduction into the network (through gas pipelines) or it may be transported in tank trucks as LNG and later regasified in autonomous facilities for reception, storage and LNG regasification (known as Unidades Autónomas de Gás or UAG). The Sines terminal currently has three working tanks, with a total regasification capacity of 390 000 cubic metres.

There are also storage facilities (subterranean caverns) located in Guarda Norte, Carriço, in the municipality of Pombal, where

there are presently four working caverns, with a further two under construction (and more four designed for this same location).

Finally, consumers may purchase natural gas through organised markets or through bilateral trading. The gas is supplied by means of distribution networks.

- 2 What percentage of the country's energy needs are met directly or indirectly with natural gas and LNG? What percentages of the country's natural gas needs are met through domestic production and imported production?

Portugal does not produce natural gas, importing 100 per cent of its gas from the preferential markets of Algeria and Nigeria (LNG). According to data made available by REN in 2011, natural gas consumption totalled 57.5 GWh, which represents a decrease of 0.5 per cent in relation to 2010 consumption.

- 3 What is the government's policy for the domestic natural gas sector and which bodies set it?

The domestic natural gas sector is a regulated sector, namely in respect of access to the networks, quality of supply and determining prices and tariffs.

Regarding the national level of regulation, it is possible to differentiate between two sub-levels:

- state regulation that is exercised by government bodies (the Directorate General for Energy and Geology (DGEG)); and
- independent regulation that is carried out by independent regulatory entities.

At the latter level, alongside horizontal regulation (through the Portuguese Competition Authority – Autoridade da Concorrência (AdC)), there is also vertical regulation (specialised) that is carried out by ERSE (Regulatory Entity for Energy Services), and by other entities (such as the Portuguese Securities Commission – Comissão de Mercado dos Valores Mobiliários (CMVM)).

DGEG depends on the Ministry of the Economy. Its primary functions are to issue, amend and withdraw registers for natural gas supply and to supervise the security of supply.

The regulation of access to the networks, quality of supply and determining prices and tariffs are attributed to ERSE that can also impose fines on energy companies for non-compliance with the laws and applicable regulations. ERSE is an independent administrative entity with administrative and financial autonomy and its own assets. Besides its functional independence, ERSE is independent from the government as well. In fact, ERSE's board members are independent, not being subject to instructions or specific guidelines. Their independence is also guaranteed by the appointment method of the members of the board (a resolution of the Ministers' Council, following a proposal by the minister of economy of a number of people with the adequate qualifications and recognised technical

and professional competence) and by the duration of their mandates (five years with one possible renewal period).

With regard to ERSE's independence from companies operating in the regulated sectors, the appointment to ERSE's board of a person who has been a member of a governing body or has exercised similar attributions in a company within the said sector in the past two years or has issued studies or opinions to a company within said sectors in the past two years is forbidden. It is also not possible for a person who is or has been a worker or permanent collaborator with management or the leadership of a company within the natural gas and electricity sectors to be appointed to ERSE's board. Similarly, after the end of their mandate, members of the board are prevented from holding any position or providing any service to companies within the regulated sectors.

Besides these specific impediments, the members of the board may not have financial interests or shareholdings in the companies within the regulated sectors.

DGEG's decisions may be challenged by appeal to the minister of the economy. In any case, decisions from any of the regulatory entities may always be challenged by court proceedings.

Regulation of natural gas production

- 4 What is the ownership and organisational structure for production of natural gas (other than LNG)? How does the government derive value from natural gas production?

Not applicable.

- 5 Describe the statutory and regulatory framework and any relevant authorisations applicable to natural gas exploration and production.

Not applicable.

Regulation of natural gas pipeline transportation and storage

- 6 Describe in general the ownership of natural gas pipeline transportation, and storage infrastructure.

Transportation activities and subterranean storage are exercised according to a public service concession regime. According to this regime, the ownership of the transportation and storage assets belongs to the concessionaire during the concession's period, being transferred to the state at the end of the concession.

Natural Gas pipeline transportation is owned by REN Gasodutos, SA (wholly owned by REN – Redes Energéticas Nacionais SGPS SA) which is the concessionaire of the national network. Storage facilities are currently owned by REN Armazenagem (wholly owned by REN – Redes Energéticas Nacionais SGPS SA) and Transgás Armazenagem, SA (a company within Galp Energia Group).

The transportation and storage operators are subject to requirements of direct and indirect unbundling from other activities of the National System of Natural Gas. The unbundling requirements were recently made harder by the transposition of Directive No. 2009/73/CE, especially for the transportation operator.

- 7 Describe the statutory and regulatory framework and any relevant authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines, and storage.

Transportation and storage activities are exercised according to the public service concession regime. Transport activity is performed exclusively by one company in the whole continental Portuguese territory: REN Gasodutos, SA is the current (and only) transport network operator. REN Armazenagem, SA and Transgás Armazenagem, SA are the subterranean storage operators. Both these

activities are regulated by DGEG and by ERSE. The regulation includes supervision, namely supervision of the enforcement by the operators of legal and regulatory provisions applicable to the concession contract (which, mainly, are DGEG's competence) and, on the other hand, the promotion of competition between operators, assuring access to the networks in equal circumstances (ERSE's competence).

The projects of construction of natural gas transportation pipelines and storage facilities are subject to an approval of the Ministry of the Economy and to DGEG's licence. The civil works, on the other hand, are subject to a licensing procedure involving several administrative entities.

- 8 How does a company obtain the land rights to construct a natural gas transportation or storage facility?

The transportation network and storage facilities are public concessions granted by the state, and therefore are subject to a specific regime, namely concerning rights for the use of the land.

The approval of the projects grants the party the right to use public land or goods belonging to the state and the municipalities for the installation or passage of integral parts of the network, as well as to request the expropriation, by urgent public utility, or the establishment of administrative easements regarding immovable assets necessary for the installation of the network or storage facility.

- 9 How is access to the natural gas transportation system and storage facilities arranged? How are tolls and tariffs established?

Access by third parties to natural gas infrastructure (for example, the storage facilities infrastructures or transmission network) is one of the cornerstones of the Natural Gas National System. As a result, it is the operators' duty to grant all system users access to the infrastructure on a non-discriminatory and transparent basis.

Right of access to the infrastructure is granted by entering into a written agreement regarding the use of such infrastructure. Pursuant to these agreements, the operators have the right to receive compensation for the use of their facilities and inherent services. This compensation is set out by ERSE in the Tariffs Regulation specifically for each type of infrastructure. Setting out regulated tariffs assures not only equal treatment for the infrastructure users, avoiding the risk of discrimination between said users, but also that the amount of the tariffs is not subject to over-inflated increases defined by the relevant operators as a consequence of the networks being natural monopolies.

Decree-Law No. 230/2012 of 26 October opened up the possibility of concessions for underground storage benefiting from a system of negotiated access.

- 10 Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities owner or operator to expand its facilities to accommodate new customers? If so, who bears the costs of interconnection or expansion?

As a general principle, operators may reasonably refuse to grant access to their infrastructure based on a lack of capacity or lack of connection.

As a consequence of the transposition of Directive No. 2009/73/EC, the transmission system operator was given the obligation to elaborate, every two years, a long term plan for the development of the transportation and storage facilities as well as the reception, storage and regasification of LNG system. The current and predicted demand of customers is a key factor to the elaboration of this plan, which is approved by the government. The operators shall comply with the terms and deadlines stated in the plan, being this obligation supervised by ERSE.

Furthermore, the government has the power to determine the operators to expand the transportation and storage facilities as well as the reception, storage and regasification of LNG system, in the situations mentioned in the concession contract.

Additionally, despite the absence of specific legal provisions, we believe that the transportation system operator has the obligation to undertake the necessary improvements to the infrastructure, directly bearing the costs of that investment, whenever it is economically viable, and, in any case, it is compelled to perform said investment whenever there is a potential client interested and willing to pay for it. The current Commercial Relations Regulation (in particular section 1 of article 87 and article 102) points to this direction.

The costs of this expansion are taken into account in the determination of the regulated tariffs.

- 11** Describe any statutory and regulatory requirements applicable to the processing of natural gas to extract liquids and to prepare it for pipeline transportation.

Not applicable.

- 12** Describe the contractual regime for transportation and storage.

As stated above, transport and storage activities are regulated activities. Therefore, the general terms and conditions for the contracts for the use of the infrastructures are approved by ERSE. These contracts are valid for one gas year (the period between 12am on 1 July and 12 midnight on 30 June the following year) and shall be automatic and successively renewed for equal periods. The terms and conditions of the contracts of use of the transmission system and storage facilities are regulated by ERSE, respectively by Directive No. 3/2011, of 7 October and Regulation No. 24145/2007 of 22 October.

Regulation of natural gas distribution

- 13** Describe in general the ownership of natural gas distribution networks.

During the concessions or licence periods, the distribution networks are owned by the concessionaires, being transferred to the state at the end of the concession contract or of the licence. There are also some parts of the infrastructure that are privately owned (for example, private distribution networks).

- 14** Describe the statutory and regulatory structure and authorisations required to operate a distribution network. To what extent are gas distribution utilities subject to public service obligations?

Distribution activity can be performed through a concession or a public service licence. The distribution networks' operators have exclusive rights regarding the relevant parts of the national territory within the concessions or the licences for local distribution. Nevertheless, local distribution licences regarding areas where there is already a regional distribution concession may be exceptionally granted if the concessionaire considers that it is unable to cover the relevant area, due to technical or economical reasons duly justified and acknowledged by the assigning entity. In 2006, along with the unbundling process regarding distribution and supply, the concession contracts and the licences pursuant to the distribution of natural gas were adapted.

However, the 11 relevant concessionaires and licensees, most of which are companies within the Galp Energia Group, kept their concessions and licences. All of them are private companies, subject to private law.

The distribution operator is subject to a legal, organisational and decision-making unbundling from other activities of the National System of Natural Gas.

The operation of a natural gas distribution network is a regulated activity, being subject to the ERSE's regulation.

Undertakings are subject to public service obligations relating to security, environmental protection and consumers protection, as set out in article 8(2) of Decree-Law No. 140/2006, of 26 July, as amended. These obligations are similar to those applicable to the concessionaires that carry out transport, reception, regasification and storage activities.

- 15** How is access to the natural gas distribution grid organised? Describe any regulation of the prices for distribution services. In which circumstances can a rate or term of service be changed?

Access to the distribution grids depends on the prior execution of an agreement for its use and on the payment of the regulated tariffs published by ERSE. Said agreement's terms and conditions are also approved by ERSE. The execution of an agreement is not required for retail traders who belong to a company that is a party to the concession contract or holds distribution licences with fewer than 100,000 connected customers and has not unbundled its supply activity from the distribution activity. The gas distributor's obligations include provision of information to consumers, switching suppliers, quality of supply and metering.

- 16** May the regulator require a distributor to expand its system to accommodate new customers? May the regulator require the distributor to limit service to existing customers so that new customers can be served?

Similar to the transport and storage operators, the distribution operators may, as a general principle, reasonably refuse to grant access to their infrastructure based on a lack of capacity or lack of connection. But there are some exceptions.

As a consequence of the transposition of Directive No. 2009/73/CE, the distribution system operator was attributed the obligation to elaborate, every two years, a medium term plan for the development of the distribution facilities. The current and predicted demand of customers is a key factor to the elaboration of this plan, which is approved by the minister of economy following an opinion issued by ERSE. The operators shall then comply with the terms and deadlines stated in the plan, being this obligation supervised by ERSE.

Moreover, the Commercial Relations Regulations establishes that the distribution network operators that operate under a concession contract shall provide connection to the grid to consumers with a total annual consumption inferior to 10,000 cubic metres (domestic consumers) whose installation is situated within the area of influence of the network (which is at the moment established as comprising a 100 metre radius around the network), as well as to consumers whose annual consumption exceeds that value, as long as the consumer undertakes to pay for the grid to be built or for the additional cost of the supply of natural gas to its installation. Although the regulation does not extend this obligation to domestic consumers whose installation is situated out of the area of influence of the network, we deem that this obligation exists whenever it is economically viable, and, in any case, if there is a potential client interested and willing to pay, so long as the service to existing consumers is not hindered.

Furthermore, the government has the power to determine the operators to expand distribution facilities, in the situations mentioned in the concession contract.

The costs of this expansion are taken into account in the determination of the regulated tariffs.

- 17** Describe the contractual regime in relation to natural gas distribution.

The general terms and conditions of the agreements for the use of the network are approved by ERSE. These agreements are valid for

one gas year (the period comprehended between 12pm on 1 July and 12pm on 30 June of the following year) and shall be automatic and successively renewed for equal periods, unless they are rejected by the system user, which shall give 60 days' notice as to the term of the agreement or its renewal. The terms and conditions of such agreements were approved by ERSE through Directive No. 3/2011, of 7 October.

Regulation of natural gas sales and trading

- 18** What is the ownership and organisational structure for the supply and trading of natural gas?

The Portuguese natural gas supply market has been fully open since January 2010. Therefore customers can buy natural gas from the supplier they choose, with which they agree a supply contract that has to follow some parameters established by law (for the protection of the consumer). The prices are set freely. There are still, however, suppliers of last resort who are obliged to supply households' consumers until 2015, and after that, have to supply economically vulnerable consumers as defined by law. In this case, the tariffs are set by ERSE. Suppliers of last resort are also obliged to supply consumers whose supplier has been prevented from exercising his activity, and also consumers who do not have the possibility of choose a supplier because there is not a supplier in their region.

- 19** To what extent are natural gas supply and trading activities subject to government oversight?

Suppliers are subject to a prior registration or licensing procedure (supplier of last resort) from DGEG, which is a body of the Ministry of Economy. Otherwise, the oversight and regulation of said activities is carried out by ERSE, for instance about some information duties that these companies are obliged to fulfil towards ERSE (for example, information related to prices).

Please note that these companies are also subject to national competition law.

- 20** How are physical and financial trades of natural gas typically completed?

Physical and financial trades of natural gas are typically completed through bilateral contracts entered between suppliers and buyers.

There are still no organised markets for natural gas (within the Iberian market there are already organised markets for electricity trading (Iberian Electricity Market)).

- 21** Must wholesale and retail buyers of natural gas purchase a bundled product from a single provider? If not, describe the range of services and products that customers can procure from competing providers.

Wholesale or retail buyers purchase natural gas from the supplier, which takes on the responsibility for the gas's availability to its clients. The supplier thus acts as an intermediary between the client and the infrastructures operators, entering into the necessary agreements for the use of the grids and paying regulated tariffs set out in the Tariff Regulation on behalf of its clients. All rights and obligations, namely those regarding the granting of guarantees, regulated services and compensations for breaches in the quality standards, may, as well, be transferred from the clients to the suppliers.

A supplier may choose to provide other services jointly or additionally to the provision of natural gas. Thus, for example, there are suppliers in the Portuguese market who jointly provide natural gas and electricity to their clients.

Regulation of LNG

- 22** What is the ownership and organisational structure for LNG, including liquefaction and export facilities and receiving and regasification facilities?

There is currently only one LNG terminal in Portugal, located near the port town of Sines. This terminal is, since 2006, owned by REN Atlântico, SA, a company within the REN Group. REN Atlântico, SA entered into a public service concession contract with the Portuguese state granting it the performance of reception, storage, regasification and delivery of LNG to the national natural gas transmission network. Under said contract, REN Atlântico, SA also performs the loading and dispatching of tank trucks and marine tankers.

- 23** Describe the regulatory framework and any relevant authorisations required to build and operate LNG facilities.

Building LNG facilities is subject to a licensing procedure (including environmental licensing) involving a number of administrative authorities, municipalities included.

Operation of LNG facilities is subject to the public service terms and conditions set out in the public service concession contract. Said operation and activity is also subject to ERSE's regulation according to the terms specified above.

- 24** Describe any regulation of the prices and terms of service in the LNG sector.

The access to the LNG Terminal at Sines depends on entering into an agreement for the use of the infrastructure, as well as on the payment of the relevant tariff approved by ERSE. The general terms and conditions of said contract were approved by ERSE through regulation 24145/2007 of 22 October.

Mergers and competition

- 25** Which government body may prevent or punish anti-competitive or manipulative practices in the natural gas sector?

The entity responsible for the prevention and punishment of anti-competitive or abusive (exploitative or exclusionary) practices is the Portuguese Competition Authority (AdC).

Nevertheless, the legal competition framework establishes that the AdC shall work in close cooperation with and consult other regulatory authorities in areas where their supervision powers overlap. Such is the case in the natural gas sector, which is regulated and supervised by ERSE.

- 26** What substantive standards does that government body apply to determine whether conduct is anti-competitive or manipulative?

The substantive standards applicable under Portuguese law are similar to the ones applicable at the community level. As with European Competition law, two main practices are prohibited under Portuguese Competition Law: (i) agreements or concerted practices between undertakings and decisions of associations of undertakings which may have as their object or effect the prevention, restriction or distortion of competition in Portugal or in a significant part thereof; and (ii) the abuse of a dominant position by an undertaking, within the Portuguese market. In addition, Portuguese Competition Law also prohibits the abuse of the economic dependence, an exploitative conduct practiced by a non-dominant undertaking.

In regard to the conduct described in (i), they may be deemed justified (and therefore exempted from the application of the prohibition) if they:

- contribute to improving the production or distribution of goods and services or promote technical or economic progress;

Update and trends

2012 saw significant regulatory changes in the natural gas sector in Portugal. Besides the reprivatization of 35 per cent of the share capital of the transmission operator (REN – Redes Energéticas Nacionais, SGPS) and 21.35 per cent of the share capital of EDP, substantial modifications to the main legislation of the sector were also approved in order to transpose the last Internal Market Natural Gas Directive and to comply with the commitments made by the Portuguese government in the context of its ongoing financial aid programme.

The liberalisation of the natural gas market is on its way with the extinction of the regulated tariffs for all consumers at the end

of 2012 (the supplier of last resort is still however obliged to supply consumers until December 2015, with a transitory tariff approved by ERSE being applicable, which includes an 'incentive factor' to encourage the consumers to change suppliers). There are already several suppliers and some interesting offers in the market (eg, combining electricity and natural gas as well as other services for households).

The next months are therefore crucial to see how the market will develop and the regulation improve, in a context of (almost) full privatisation and liberalisation.

- allow users of such goods and services to obtain a fair share of the resulting benefits;
- do not impose on undertakings restrictions that are indispensable to reach the objectives of the conduct; and
- do not afford such undertakings the possibility of eliminating competition in respect to a substantial part of the relevant market.

There is the presumption that agreements that would be considered justified under the EU block exemptions, but that do not have an effect on Community trade, would also be considered justified under Portuguese Competition Law.

With regard to (ii) abuse of a dominant situation, there are no relevant specificities in Portuguese Competition Law, in comparison with EU Competition Law, with regard to the criteria used for determining the existence of a dominant position: a company enjoying a position of economic strength, capable of behaving to an appreciable extent independently of its competitors, customers and ultimately of consumers, will be considered to have a dominant position and, therefore, would be able to prevent effective competition. Furthermore, there are no similar block exempted practices for the conduct of undertakings that are in a dominant position, which, therefore – under the special responsibility that is vested upon dominant entities – requires that all actions be assessed for an eventual detrimental effect on competition and, should that be the case, for the strength of the efficiencies generated by such practices.

- 27** What authority does the government body have to preclude or remedy anti-competitive or manipulative practices?

In regard to practices that could be construed as anti-competitive or manipulative (described in the previous section), the Portuguese Competition Authority has the power, on the one hand and under its own initiative, to initiate sectorial inquiries from which (non-binding) recommendations could ensue or, on the other hand, ex

officio or following a complaint, to initiate proceedings against companies that could be involved in anti-competitive practices.

Should the Portuguese Competition Authority determine the existence of an anti-competitive practice, it may impose sanctions on the infringing undertakings (fines), as well as remedies of a structural or behavioural nature.

- 28** Does any government body have authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of production, transportation or distribution assets?

The AdC is the authority responsible for merger control in Portugal and the procedure is governed by the Portuguese Competition Law.

According to Portuguese law, a concentration that meets one of the following thresholds must be notified to the AdC:

- market share: creation or reinforcement of a market share exceeding 50 per cent on the national market for a particular good or service or on a substantial part of it;
- turnover: an aggregate turnover, in Portugal, of more than €100 million, as long as each of at least two of the undertakings concerned achieve a turnover of more than €5 million in Portugal; and
- mixed criterion: the creation or reinforcement of a market share exceeding 30 per cent on the national market for a particular good or service or on a substantial part of it, as long as each of at least two of the undertakings concerned achieve a turnover of more than €5 million in Portugal.

In regard to the substantive appraisal of the merger, according to Portuguese Competition Law, the main criterion considered when assessing a concentration is if such merger leads to a significant impediment to effective competition in the Portuguese market or of a substantial part thereof, in particular as a result of the creation or strengthening of a dominant position.

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The review of the merger begins with an assessment phase (Phase I) to be completed within 30 business days as of the date the notification becomes effective. During this phase, if the AdC requests additional information or documents, or the correction of any elements provided, its request will suspend the time limit of 30 days. The suspension will end on the first business day after receipt of the information requested.

Within the 30 business days time limit the AdC will decide:

- that the concentration is not subject to prior notification; or
- not to oppose the concentration; or
- to initiate an in-depth investigation if it considers that the concentration may lead to a significant impediment to effective competition on the market.

A non-opposition decision in Phase I may, however, be accompanied by conditions and obligations aimed at guaranteeing the compliance with and ensure the maintenance of effective competition in the market.

The in-depth investigation (Phase II) shall not take more than 90 working days as from the decision to initiate an in-depth investigation, unless the AdC requests additional information or documents or the correction of the information already provided, in which case the aforementioned time period is suspended until the information or documentation requested by the AdC is provided, for a maximum period of 20 working days.

At the end of Phase II, the AdC may decide:

- not to oppose to the concentration;
- to prohibit the concentration, ordering, if the concentration has already been implemented, appropriate measures to re-establish effective competition, particularly the demerging of undertakings or assets or the cessation of control; or
- to adopt a non-opposition decision subject to remedies designed to maintain effective competition on the market.

The lack of a decision by the AdC within the above-mentioned periods will be considered as a decision of non-opposition to the concentration.

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- 29** In the purchase of a regulated gas utility, are there any restrictions on the inclusion of the purchase cost in the price of services?

The restrictions arise from the method of establishing the tariffs and the costs that are allowed to be included.

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- 30** Are there any restrictions on the acquisition of shares in gas utilities? Do any corporate governance regulations or rules regarding the transfer of assets apply to gas utilities?

The sole existing restrictions concern the purchase of shares of companies which are the concessionaires of the national transport network and the existing LNG terminal. In fact, no one (national or foreign) may hold, directly or indirectly, more than 25 per cent of the share capital of each company that is the concessionaire of said infrastructures. These restrictions do not apply to the state, to companies

controlled by the state and to the relations of domination within the corporate group who operates the transportation network operator or the LNG terminal operator.

Besides the aforementioned restrictions, no other specific limitations to the transfer of shares apply solely to the natural gas sector. However, as most activities comprehended in said sector are performed under a concession contract, it is common for these contracts to submit the transmission of shares in the relevant companies to authorisation by the competent government member. Failure to request said authorisations renders the transaction null and void.

International

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- 31** Are there any special requirements or limitations on foreign companies acquiring interests in any part of the natural gas sector?

As a result of the European open market, there are no limitations regarding the purchase of interests in the natural gas sector by foreign companies, other than those that apply indistinctively to national and foreign companies.

In fact, in 2012, a Chinese and an Omani company purchased, respectively, 25 per cent and 15 per cent of REN, the transmission system operator.

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- 32** To what extent is regulatory policy affected by treaties or other multinational agreements?

As Portugal is a member of the European Union, natural gas regulation is highly influenced by Community Law.

The legislative package enacted in 2006, which deeply restructured the natural gas sector, derives directly from the Second Gas Directive No. 2003/55/EC, which sets out the common rules for the natural gas internal market. As a member state, Portugal was compelled to transpose said Directive.

The same occurred with the Third Gas Directive, approved by the Directive No. 2009/73/CE, which demanded Portugal to introduce some adjustments in its legislation, namely in what concerns the unbundling requirements, the powers of the national regulator and the rights of customers.

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- 33** What rules apply to cross-border sales or deliveries of natural gas?

There are no specific rules. The general regime applies.

Transactions between affiliates

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- 34** What restrictions exist on transactions between a natural gas utility and its affiliates?

Not applicable.

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- 35** Who enforces the affiliate restrictions and what are the sanctions for non-compliance?

Not applicable.

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