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Portugal

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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.

As a consequence of the transposition of Directive No. 2003/55/EC, the Portuguese natural gas sector suffered a deep restructuring in 2006. Alongside the unbundling of the activities of transport, distribution and trading, the liberalisation of the trading activity to a free market regime was one of the measures taken (last resource trading is, however, subject to regulation). Portugal does not produce natural gas, importing 100 per cent of the consumed gas from the preferential markets of Algeria and Nigeria (LNG).

Natural gas enters the Portuguese territory through the Campo Maior gas pipeline, more specifically through the international interconnections, or through the Sines Terminal. Natural gas is then transported by high-pressure gas pipelines that run from Leiria-Braga, Leiria-Campo Maior, Setúbal-Leira, Sines- Setúbal, Braga-Tuy, Portalegre-Guarda, and Coimbra-Viseu. Globally, there are 1,218km of gas pipelines, which have a current capacity of 3.5bcm/year (billion cubic metres). However, only 2.7bcm are currently being used.

Natural gas from Nigeria or from the spot market arrives at the LNG Terminal at Sines transported by tankers. There 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). Currently, Sines Terminal has two working tanks, with a regasification capacity of 5.3bcm/year, but recently a public tender has been launched for the construction of a third tank, which will allow for the expansion of the terminal's capacity up to 8bcm.

There is also storage in subterranean caverns located in Guarda Norte, Carriço, in the municipality of Pombal, where presently there are three working caverns.

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?

There is no domestic production of natural gas. According to the latest data made available in 2007 by the Directorate General for Energy and Geology, 15.02 per cent (3,825,742 BOE (barrel of oil equivalent)) of the global Portuguese primary energy consumption is met directly with natural gas. All natural gas available in Portugal is imported from Algeria and Nigeria (LNG).

Government policy

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

Although the transfer, in 2006, of the relevant activities to the private sector, state intervention in this sector of the economy was not brought to an end with these changes. In fact, when the state abandoned its role as a player in the natural gas sector, it took on, as happened in other countries, the role of arbiter by means of regulation of certain activities in the sector (reception, storage and regasification of LNG, subterranean storage, transport, distribution and last resource trading, logistic operation regarding the change of supply and organised market management), namely in respect of access to the networks, service quality and determining prices and tariffs. Thus the only activity that is not directly subject to regulation, being exercised in a free way in a competitive market, is (free) trading.

Regarding the national level of regulation, it is possible to differentiate between two sub-levels: a state sub-level and a sub-state sub-level. State regulation is exercised by government bodies (the Directorate General for Energy and Geology) and sub-state regulation is carried out by independent regulatory entities. At the latter level, alongside horizontal regulation (through the Portuguese Competition Authority – Autoridade da Concorrência or 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)).

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 material governmental or administrative authorisations applicable to natural gas exploration and production.

Not applicable.

Regulation of natural gas pipeline transportation and storage

- 6 What is the ownership and organisational structure for pipeline transportation and storage of natural gas?

Transport activities and subterranean storage 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.

- 7** Describe the statutory and regulatory framework and any material governmental or administrative authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines and storage facilities.

The activities of transport and subterranean storage are regulated both by DGEG and by ERSE. The regulation's object respects the concession's supervision, namely adhering to 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 their access to the networks in equal circumstances (ERSE's competence).

DGEG is a governmental body and dependent on the Ministry of the Economy. ERSE, however, is an independent administrative authority with administrative and financial autonomy and its own assets. Besides its functional independence, ERSE is independent from the government as well. In fact, the members of ERSE's board are independent in the exercise of their assignments, 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 the economy of a number of people with the adequate qualifications and renowned technical and professional competence) and by the duration of their appointment (five years with one possible renewal period).

On the other hand, members of ERSE's board may not be removed from their positions before the end of their mandate, unless the member becomes permanently incapacitated or a supervening incompatibility takes place; there is a serious breach undoubtedly committed by the relevant member while carrying out the board's functions or in fulfilment of any other obligations inherent to his or her position; or an unappealable sentence is passed convicting said member for any crime that may give grounds to question his or her suitability for the exercise of the office.

Furthermore, the board may only be dissolved by resolution of the Ministers' Council in one of the following situations: serious irregularities in the body's functioning; or considerable and unjustified excess in the expenditures in comparison to those foreseen in the budget.

With regards 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 of 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. Decisions from any of the regulatory entities may be challenged by court proceedings.

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

The transport 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 soil.

Establishing and operating infrastructures related to the natural gas public network is contingent upon the approval of the relevant projects by the Ministry of the Economy.

The approval of the projects grants the party the right to use public goods or goods belonging to the state and the municipalities for the establishing or the passing of integral parts of the network, as well as to request the expropriation, by urgent public utility, or the establishment of easements regarding immoveable assets necessary for the establishing of the integral parts of the network.

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

Free access by third parties to natural gas infrastructures (eg, the subterranean storage infrastructure or the transport network) is one of the cornerstones of the Natural Gas National System. As a result, it is the operators' duty to grant all market agents 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 said infrastructure. Pursuant to these agreements, the operators have the right to receive compensation for the use of their physical facilities and inherent services. Said compensation is set out in the Tariffs Regulation specifically for each type of infrastructure.

Tariffs pursuant to the activities of transport and subterranean storage are determined by ERSE, thus constituting regulated tariffs. 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 overinflated increases defined by the relevant operators as a consequence of the networks being natural monopolies.

With regards to the transport network operator, the general structure of the tariff for transport network use is made up of the price for the capacity used, expressed in euro per kWh/day by month, and by the energy price difference between peak periods and off-peak periods, expressed in euro per kWh.

The general structure of the tariff for the use of subterranean storage comprises the following prices:

- price of the injected energy, expressed in euro per kWh;
- price of the extracted energy, expressed in euro per kWh; and
- daily price for stored energy, expressed in euro per kWh.

- 10** Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities 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 lack of capacity. Despite being set out in Directive No. 2003/55/EC that member states may take the necessary measures to assure that the natural gas companies that refuse to grant access to the networks based on lack of capacity or on lack of connection shall undergo the necessary improvements, whenever that is economically viable or when a potential client is interested in paying for it, this legal provision has not been transposed to Portuguese legislation.

However, despite the absence of specific legal provision, in our opinion the operators should undertake the necessary improvements to the infrastructure, directly bearing the costs of that investment, whenever it is economically viable, and, in any case, are compelled to perform said investment whenever there is a potential client interested and willing to bear the relevant costs.

There are, however, rules pursuant to the connections to the networks that set out that the charges connected with the network to

be built, as well as with changes in the existing connections, shall be borne by the entity requesting such changes.

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

The activity of processing natural gas to extract liquids and to prepare it for pipeline transportation (regasification) is subject to the entering into of a public service concession contract with the Portuguese government. The terms and conditions of said contract are determined by law.

Currently, the only existing regasification terminal is located at Sines and is explored by REN Atlântico, SA, a company within the REN Group.

In regulatory terms, ERSE is responsible for defining the specific procedures and rules governing this activity.

In this respect, ERSE sets out rules determining the relationships between the different players performing different natural gas sector activities, namely to assure cooperation among them in order for the national natural gas system to work as a whole and to ensure the necessary quality in the services provided by the players.

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

As stated above, the activities of transport and subterranean storage are regulated. 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 12pm of 1 July and 12pm of 30 June of the following year) and shall be automatic and successively renewed for equal periods.

Regulation of natural gas distribution

- 13** What is the ownership and organisational structure for the local distribution of natural gas (transportation from pipeline to consumer)?

Distribution activity may be performed in accordance with a concession regime or by means of a public service licence. The distribution networks' operators have exclusive rights regarding the relevant parts of the national territory comprehended in the concessions or in the licences for local distribution. Local distribution licences may be exceptionally granted in respect of areas where there is a regional distribution concession in the event the concessionaire considers that it is unable to cover the relevant area, according to a technical or economical justification duly justified and acknowledge by the assigning entity. Since 2006, along with the unbundling process regarding distribution and trading, the concession contracts, as well as the licences pursuant to the distribution of natural gas were amended. However, the nine relevant concessionaires and licensees, most of which are companies within the Galp Group, kept their concessions and licences. All of them are private companies, subject to private law.

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

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

The distribution of natural gas is considered a public service and therefore is subject to public service obligations, as set out in article 8(2) of Decree-Law No. 140/2006, of 26 July. These obligations are similar to those applicable to the concessionaires of other

natural gas sector activities, such as transport, reception, storage and regasification and subterranean storage.

For details regarding the regulatory entities, please refer to question 7 above.

- 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 networks depends on the prior celebration of an agreement for the use of the networks, as well as on the payment of the tariffs published by ERSE in the Tariffs Regulation. Said agreement's terms and conditions are also approved by ERSE. The entering into of said agreement is not required for retail traders that are part of a company that is a party of the concession contract or holds distribution licences with fewer than 100,000 clients and has not unbundled its trading activity from the distribution activity.

- 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?

Similarly to the activities of transport, reception, storage and regasification of LNG and subterranean storage, the distribution operators may reasonably refuse to grant access to their network in the event of lack of capacity. Despite the absence of specific legal provision, in our opinion operators should undergo the necessary improvements in the infrastructures, directly bearing the costs of that investment, whenever it is economically viable, and, in any case, are compelled to perform said investment whenever there is a potential client interested and willing to bear the relevant costs.

The existence of means to solve congestions in the distribution networks is foreseen. Said means are put forward by the operators (in coordination with the operator of the transport networks and the operator of the natural gas system with which the network is interconnected) and approved by ERSE.

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

The general terms and conditions of the agreement for the use of the network are approved by ERSE. These agreements are valid for one gas year (the period comprehended between 12pm of 1 July and 12pm of 30 June of the following year) and shall be automatic and successively renewed for equal periods, unless they are rejected by the market agent, which shall give 60 days' notice as to the term of the agreement or its renewal.

Regulation of natural gas sales and trading

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

As a result of Directive No. 2003/55/EC, the companies supplying and trading natural gas are legally independent from other companies operating in the natural gas sector. There is, however, an exception allowing the supply and distribution of natural gas to be performed by the same company. This exception takes place when the said company does not have more than 100,000 clients.

It must also be pointed out that the activity of supply and trading of natural gas is divided between free trading companies and last resource companies (suppliers to wholesale and retail buyers). For both types of trading, a licence granted by DGEG is necessary. Last resource companies perform a regulated activity and are legally compelled to supply clients, entering into supply agreements under

predetermined terms and conditions. They are also subject to public service obligations. Conversely, free trading companies are entitled to negotiate and define the terms and conditions of the services provided.

19 To what extent are natural gas supply and trading activities subject to governmental oversight?

Supply and trading activities are subject to licensing by the competent administrative authority (DGEG), which is a body of the Ministry of the Economy. Otherwise, the oversight and regulation of said activities is carried out by ERSE but only in what concerns last resource trading and organised markets' management. Although, there is no regulation in respect of free trading, there are some information duties that these companies are obliged to fulfil towards ERSE.

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 the suppliers and buyers.

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

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 clients purchase the required natural gas from the supplier, which takes on the responsibility for the gas's availability for 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 infrastructures and paying the 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.

Regulation of LNG

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

Currently, there is 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 held by the REN Group. REN Atlântico, SA entered into a public service concession contract with the Portuguese state granting it the performance of the following activities: 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 material governmental or administrative authorisations required to build and operate LNG facilities.

The LNG facilities are 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.

For details regarding the regulatory entities, please refer to question 7.

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 the entering into of 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 are also approved by ERSE.

The tariff for the use of the LNG reception terminal, storage and regasification includes the following prices:

- price for the regasification capacity used, expressed in euro per kWh/day, by month;
- energy price, expressed in euro per kWh;
- daily price for the energy stored, expressed in euro per kWh; and
- pre-established price for the loading of tank trucks, expressed in euro per loading operation.

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 (manipulative) practices is the Portuguese Competition Authority (Adc).

Nevertheless, the legal competition framework establishes that the AdC shall work 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 under European Community competition law, pursuant to Portuguese law, there are two main practices that are prohibited:

- agreements or concerted practices between undertakings and decisions of associations of undertakings; and
- the abuse of a dominant position by an undertaking, which has as its object or effect the prevention or restriction of competition within the Portuguese market.

In regards to the conducts described in the first point above, such conducts may be deemed justified (and therefore exempted from the application of the prohibition) if they: (i) contribute to improving the production or distribution of goods and services or promote technical or economic progress, (ii) allow users of such goods and services to obtain a fair share of the resulting benefits, (iii) do not impose on undertakings restrictions that are indispensable to reach the objectives of the conduct and (iv) do not afford such undertakings the possibility of eliminating competition in respect to a substantial part of the relevant market.

Pursuant to Portuguese law, the block exemption regulations approved at community level are also applicable in terms of national competition law.

There is no such mechanism for justification or exemption of a conduct that is deemed as an abuse of dominant position.

In accordance with Portuguese competition law, an undertaking will be deemed dominant if it does not have significant competition in the relevant market or assumes preponderance over its competitors, that is, if it is able to act independently from its competitors, customers and consumers.

The market share of an undertaking is an important factor to determine if a dominant position exists. There is a presumption of

dominance if an undertaking has a market share that exceeds 50 per cent. However, there may be cases where an undertaking has a lower market share, but may be deemed dominant if other factors come into play. Certain barriers for new players to enter the relevant market, such as ownership of patents, well-developed distribution systems or obligatory trading partner, may be taken into account when assessing dominance.

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

The Portuguese Competition Law establishes that the authority of the Competition Authority is threefold: to supervise, to regulate and to enforce.

Pursuant to the Portuguese Competition Law, when exercising its supervision and enforcement powers, the AdC enjoys the same rights and powers and is subject to the same duties as the Portuguese criminal police.

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

According to Portuguese law, any merger or concentration that meets one of the following thresholds must be notified to the Portuguese Competition Authority:

- market share: 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; and
- turnover: an aggregate turnover, in Portugal, of more than €150 million, as long as each of at least two of the undertakings concerned achieve a turnover of more than €2 million in Portugal.

According to the Portuguese Competition Law, the main criteria to be taken into account when assessing a merger or concentration is if such merger leads to the creation or strengthening of a dominant position as a result of which effective competition would be significantly impeded in the Portuguese market or a substantial part thereof.

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 Competition Authority 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 create or strengthen a dominant position preventing effective competition on the market.

A non-opposition decision may, however, include the imposition of remedies and commitments aimed at guaranteeing 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 mentioned in point three above, 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.

At the end of Phase II, the Competition Authority 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 or commitments designed to maintain effective competition on the market.

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

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.

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 shareholdings of companies which are the concessionaires of the national transport network, storage infrastructures and LNG terminals. In fact, no one may hold, directly or indirectly, more than 10 per cent of the share capital of each company that is the concessionaire of said infrastructures. This restriction is decreased to 5 per cent in respect of entities (national or foreign) that already perform activities connected with the natural gas sector. These restrictions do not apply to the state, to companies controlled by the state and to the company responsible for the transport network. On the other hand, said restrictions are also not applicable to companies responsible for the construction of new subterranean storage infrastructures and of new LNG terminals, which are subject to new concession contracts after July 2006.

Besides the aforementioned restrictions, no other specific limitations apply solely to the natural gas sector.

International

31 Are there any special requirements or limitations on foreign companies acquiring interests in 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. 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 authorisation renders the transaction null and void. On the other hand, there is also a legal limitation to the ownership of shares in companies that perform the activities of transport, subterranean storage and operation of the LNG terminal. In said companies, no one may hold more than 10 per cent of the share capital and that limit is lowered to 5 per cent in the event that the shareholder is a company that already is a player in the natural gas sector, be it national or foreign. Consequently, however there are some limitations, these do not discriminate whether the purchaser is of national or foreign origin.

Update and trends

Since 2006, as a consequence of the enactment of a new legislative package transposing Directive No. 2003/55/EC of the European Parliament and of the Council, the natural gas sector in Portugal has been increasingly active. The liberalisation of the market was the main objective of this new legislation, aiming to improve the efficiency of the energy grids and to increase the competitiveness of the Portuguese economy.

Portugal has seen the natural gas sector move from a highly restricted area, based on a legal monopoly with exclusive rights, controlled by a vertically integrated company, to a sector open to competition and progressively controlled by private entities, grounded on the right of access to infrastructure, the unbundling process, the right granted to consumers to choose their supplier and regulated tariffs alongside prices freely determined by market laws.

The free choice of natural gas supplier has been, albeit gradually, established according to a schedule that set out different stages leading to an open market. At present, clients with an annual consumption of 10,000m³ or more may choose their supplier. As from 2010, the market shall be entirely open and all other consumers may opt for a different provider.

Meanwhile, on 10 February 2009, the first of three natural gas auctions was launched. The remaining two auctions shall take place in the following two years. Participation in said auction was open to gas traders operating under market regime and to eligible clients (with an annual consumption in excess of 10,000m³). This initiative provided the free natural gas market with 300 million m³ of gas, a number that

translates into a market openness of approximately 15 per cent in respect of the consumption of the industrial sector.

Taking the above into consideration, it is possible to conclude that, currently, the main challenges of the natural gas sector in Portugal are, internally, the full implementation of the model supported by the government, concluding the regulation that completes the legislative package enacted in 2006. From an external point of view, the creation of MIBGAS (Iberian Natural Gas Market – Mercado Ibérico de Gás Natural) constitutes the main challenge that both Portugal and Spain must face, in a process similar to the one that led to the creation of MIBEL (Iberian Electricity Market – Mercado Ibérico de Electricidade).

In fact, although work has been carried out to create MIBGAS, it has not yet been implemented, nor has the respective agreement been signed by both parties. Actually, only the proposal for its creation was approved, in January 2008, by the regulatory entities of both countries (ERSE and CNE). This proposal stipulates the harmonisation and construction procedure for MIBGAS that shall be implemented gradually and by mutual agreement, based on the active contribution of both countries. To do so, a roadmap has been drawn up (and its execution should have started in 2008), focusing on the harmonisation of gas trade, on the merging of access tariffs and on the joint planning of gas networks. With the intention of performing said action plan, on 4 March 2009, a proposal for the harmonisation and mutual acceptance of gas trade licences for MIBGAS was put forward for public consultation.

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.

In fact, the legislative package enacted in 2006, which deeply restructured the sector, derives directly from 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.

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

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

Not applicable.

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

Not applicable.



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