

Aspects of the sustainable Economy Law and its complementary organic law currently before parliament which affect the renewable energies sector

On 28 February 2011, the Official Gazette of the Spanish Parliament published the text of the Draft Bill of the Sustainable Economy Law ("**SEL**") approved on 15 February 2011 by the Plenary Session of the Members of Parliament. This law, pending to be published in the Official State Gazette ("**BOE**") at the date of this Client Briefing, will enter into force the day after it is published in the BOE.

As stated in its first article, the purpose of this Law is to *"introduce the necessary structural reforms into the legal system in order to create conditions which favour sustainable economic development"*.

In terms of the scope of the renewable energies, the recently approved Draft Bill of the SEL: (i) sets a series of national objectives consistent with the commitments made by Spain with regard to the European Union, (ii) amends the First Additional Provision and First Final Provision of Royal Decree-law 14/2010, dated 23 December, which establishes urgent measures to correct the tariff deficit in the electricity sector ("**RD-L 14/2010**"), and (iii) considers giving photovoltaic technology access to the ICO's Liquidity Lines, in order to facilitate their adaptation to the new regulatory framework.

Energy planning according to Spain's objectives in terms of renewable energies

1. In line with the objectives previously established by the European Union, the SEL sets a minimum target participation of renewable energies in gross final energy consumption of 20 percent for the year 2020. The aim to achieve said objective should orient the design and approval of public policy and, in particular, the public incentives for the development of the various energy sources.

Content

Energy planning according to Spain's objectives in terms of renewable energies

Amendments to RD-L 14/2010

Legislation pending approval: Draft Bill of the SEL's Complementary Organic Law

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2. For this purpose, the SEL establishes that, within three months as from its entry into force, the Government must approve a renewable energies plan which provides, on an indicative basis, several scenarios as to the future evolution of energy demand, proposes the necessary resources to satisfy demand, outlines the new capacity needs and, in general, contains useful provisions for making private initiative investment decisions and for making energy policy decisions. The fulfilment of the objectives established in this plan will be evaluated every four years.
3. According to the provisions of this renewable energies plan, the legislation will rule the public incentives necessary to meet the objectives set, according to the following principles:
 - a) Guarantee of an adequate return on the investment;
 - b) Promotion of those technologies which provide stability to the system;
 - c) Progressive internalisation of the costs assumed by the system, also encouraging the substitution of obsolete technologies;
 - d) Prioritisation of the most efficient technologies which provide greater manageability;
 - e) Efficiency and economic sustainability.

Amendments to RD-L 14/2010

1. The First Additional Provision of RD-L 14/2010 limited the number of equivalent hours of operation of the solar photovoltaic technology plants that were entitled to apply regulated tariffs. For this purpose, said Additional Provision enabled the Government to amend, by Royal Decree, the number of equivalent hours subject to the regulated tariff, as the technology evolved.

However, according to the amendment introduced by the SEL to said Additional Provision, any potential amendments to the number of equivalent hours of operation subject to regulated tariff that may be approved in the future *"will only affect those plants not operating at the time said Royal Decree enters into force; therefore, the entry date in the remuneration pre-assignment registry for photovoltaic plants will be considered"*.
2. The term during which time solar photovoltaic plants will be entitled to apply the regulated tariff is extended from 28 to 30 years.

Legislation pending approval: Draft Bill of the SEL's Complementary Organic Law

1. At the date of this Client Briefing, the Draft Bill of the Organic Law which complements the SEL is currently pending approval before the Spanish Parliament. This Draft Bill amends Organic Laws

5/2002, dated 19 June, on professional qualifications and training; 2/2006, dated 3 May, on Education; and 6/1985, dated 1 July, on the Judiciary.

2. This Draft Bill of the Complementary Organic Law, approved by the Plenary Session of the Senate on 23 February 2011 (published in the Official Gazette of Spanish Parliament on 3 March 2011), that has been put to the Members of Parliament for voting (the vote is expected to take place in the next few days), would revoke the First Additional Provision and the Second Transitional Provision of RD-L 14/2010. Therefore, the limits on the number of equivalent hours of operation, for solar photovoltaic technology, that were entitled to apply regulated tariffs, approved in said Royal Decree-Law, would be revoked.

This Client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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