METAXAS & ASSOCIATES

ATTORNEYS AT LAW

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In this issue:

- **M&A Law Firm has been ranked as "Leading Law Firm" by both most renowned legal Directories LEGAL 500 EMEA and CHAMBERS & PARTNERS GUIDE 2015**
- **M&A Law Firm - Official Contributor of the 19th Roundtable with the Government of Greece organized by the Economist (14-15 May 2015, Athens)**

<u>Metaxas & Associates Law Firm has been ranked as "Leading Law Firm" by the renowned LEGAL 500 EMEA and CHAMBERS & PARTNERS GUIDE 2015</u>

Metaxas & Associates Law Firm is glad to announce that it has been recommended as Leading Law Firm by the most renowned independent legal Directories **Legal 500 Europe, Middle East & Africa 2015** and **Chambers & Partners Guide 2015.**

According to the relevant editorial of Legal 500 EMEA, Metaxas & Associates Law Firm is "an excellent firm" to guide clients through Greece's "frequently changing" energy legislation. Our Managing Partner, Dr. Antonis Metaxas, is renowned, according to clients and market players for his "deep academic knowledge" of the Energy sector. **Chambers & Partners** cited that Metaxas & Associates Law Firm is "widely recognised for its significant activity in the renewable energy and electricity markets, providing notable regulatory, licensing and transactional advice. The Law Firm is also highly regarded for energy litigation, with experience in representing clients before the EC. It acts for prominent industrial consumers and energy producers in the Greek market." The clients have stated that the Law Firm is "a hands-on, integrated and very proactive service and that they are fully satisfied with the firm's performance, in terms of response times, business acumen, and the overall strength of the team". Department Head, Professor Antonis Metaxas, is regarded by clients as "***a pioneer of the subject, combining academic excellence with professional experience***."

M&A Law Firm is glad to receive this important acknowledgement of its professionalism and expertise by its numerous clients.

M&A Law Firm - Official Contributor of the 19th Roundtable with the Government of Greece organized by the Economist (14-15 May 2015, Athens)

Metaxas & Associates Law Firm sponsored the 19th Roundtable with the Government of Greece organized by the Economist "**Europe: The Comeback? Greece: How resilient? , Brainstorming with world leaders**" which took place in Athens on 14-15 May, 2015.

Invited speakers were distinguished personalities from around the world, including Greece's Prime Minister Alexis Tsipras, Enrico Letta, Italy's Former Prime Minister, Yanis Varoufakis, Greece's Minister of Finance, George Stathakis, Greece's Minister for Economy, Infrastructure, maritime Affairs and Tourism and Panagiotis Lafazanis, Greece's Minister for Environment and Energy. Top personalities from politics and academia engaged in constructive brainstorming, openly discussed and put forward new proposals on the all the issues that this year's 19th annual Roundtable has covered. Lessons to be learnt from EU Members States on economic recovery, restructuring the Greek economy, privatization schemes and investment, finance, energy, tourism, shipping, business, technology and innovation were the key topics covered at this year's two day government roundtable.

Moderator of the panel discussion focusing on the prospects of the Greek Energy Market was Managing Partner of M&A Law Firm, Dr. A. Metaxas.

M&A Law Firm's annual participation in the Government Roundtable of the Economist is typical for its categorization as one of the leading, prominent business law firms in Greece especially in the core fields of its specialization in particular energy, privatizations and legal and regulatory aspects in all network bound sectors of the economy.

For further information, see the following ***link***.

STATE AID

- **Commission launches sector inquiry into mechanisms to ensure electricity supplies**

The European Commission has launched a state aid sector inquiry into national support schemes for capacity mechanisms, i.e. measures to ensure that adequate capacity to produce electricity is available at all times to avoid black-outs (so-called "capacity mechanisms"). The inquiry will gather information on capacity mechanisms to examine, in particular, whether they ensure sufficient electricity supply without distorting competition or trade in the EU Single Market.

An increasing number of Member States are introducing capacity mechanisms to encourage investment in power plants or provide incentives that existing power plants continue to operate, with the purpose of ensuring the supply of electricity meets demand at all times. The Commission recognizes that such public measures may in some situations be justified and its 2014 Guidelines on state aid for environmental protection and energy for the first time provided criteria for the assessment whether capacity mechanisms are in line with state aid rules. Member States have to be able to demonstrate that the measures are necessary. In addition they need to ensure that capacity mechanisms are designed in a way that they do not distort competition in the EU's Single Market.

The sector inquiry, the first under EU state aid rules, will initially request information on a representative sample of Member States that have capacity mechanisms in place or are considering them, namely: Belgium, Croatia, Denmark, France, Germany, Ireland, Italy, Poland, Portugal, Spain and Sweden.

Capacity mechanisms are measures taken by Member States to ensure that electricity supply can match demand in the medium and long term. They are designed to support investment to fill the expected capacity gap and ensure security of supply. Typically, capacity mechanisms offer additional rewards to capacity providers, on top of income obtained by selling electricity on the market, in return for maintaining existing capacity or investing in new capacity needed to guarantee security of electricity supplies.

Through the sector inquiry the Commission wants to better understand the capacity mechanisms already implemented or under consideration. It will also assess and identify if there are certain design features of capacity mechanisms that distort competition between capacity providers or hinder trade across national borders.

Commission refers Italy to CEU for failure to recover illegal state aid

The European Commission has decided to refer Italy to the Court of the EU (CEU) because it did not fully recover the state aid illegally granted to the hotel industry in Sardinia. The Commission is taking Italy to Court for a second time regarding aid to several hotels in Sardinia, as the Italian authorities did not comply with the Court's first ruling of March 2012 (case C-243/10). In this ruling the Court confirmed that Italy had failed to implement the Commission's decision of 2 July 2008, which found that the Autonomous Region of Sardinia had granted aid to some hotel companies in breach of the conditions laid down in the framework approved by the Commission. The Commission ordered Italy to recover illegal aid amounting to close to € 15 million.

Still today, almost € 13 million (of the initial € 15 million) have not been recovered. The delay in recovery is caused by national court decisions that have suspended recovery orders issued by the Italian national administration. The Commission considers that many of these suspensions do not respect the strict requirements set out by EU jurisprudence for decisions by national courts to block, even provisionally, the implementation of Union acts. The Commission therefore asks the Court of Justice to condemn Italy a second time and requests that the Court imposes on Italy a lump sum penalty of about € 20 million, in addition to a daily penalty payment of about € 160,000 until Italy has fully recovered the aid and thereby ended the infringement.

- **Commission approves resolution aid for the resolution of Greek Panellinia Bank**

The European Commission has found that resolution aid granted for the resolution of the retail bank Panellinia Bank (with a 0.3% market share in Greece) is in line with EU State aid rules. The Bank of Greece has decided to put the bank under resolution because Panellinia Bank did not successfully cover a capital shortfall identified in the 2013 stress test of the Greek banking sector. Under the resolution plan, selected activities of Panellinia Bank will be transferred and integrated into Piraeus Bank, which follows an open and non-discriminatory sales process. This will ensure that Panellinia Bank's transferred activities return to long-term viability within the new entity, while limiting the distortion of competition created by the State aid granted. Existing shareholders contributed fully, reducing the need for State aid to the necessary minimum in line with burden sharing principles. Finally, the European Commission has found the transfer of the selected activities in line with the restructuring plan of Piraeus Bank approved on 23 July 2014.

Commission approves support to 20 offshore wind farms in Germany

The European Commission has found that German plans to support the building of 20 offshore wind farms are in line with EU state aid rules. Seventeen wind farms will be located in the North Sea and three in the Baltic Sea. The Commission concluded that the project would further EU energy and environmental objectives without unduly distorting competition in the Single Market.

In October 2014 Germany notified plans to support the construction and operation of several offshore wind farms. Aid would be granted to operators in the form of a premium paid on top of the market price for electricity.

The size of each wind farm ranges from 252 megawatt (MW) to 688 MW and, in total, the projects will make available up to 7 gigawatt (GW) of renewable energy generation capacity. The total investment costs amount to € 29.3 billion. All wind farms are planned to start producing electricity by the end of 2019 at the latest. In total, they are expected to generate 28 terawatt-hours (TWh) of renewable electricity per year amounting to almost 13% of Germany's 2020 scenario for renewable energy given in the National Renewable Energy Action Plan (NREAP).

The Commission found that the projects contribute to reaching Germany's 2020 targets for renewable energy without unduly distorting competition in the single market. In particular, the Commission verified that the state aid is limited to what is necessary to realising the investment. The rates of return that investors would achieve thanks to the premium were limited to what is necessary to implement each project and in line with rates previously approved by the Commission for similar projects. The Commission also took into consideration that these projects will enable new electricity providers to enter the German generation market. This will have a positive effect on competition.

ENERGY

New market rules bring EU-wide gas market closer

The European Commission has adopted new rules for cross-border cooperation between gas network operators, bringing the goal of an EU internal market for gas a step closer. The rules, adopted on 30 April 2015, are part of a series of technical laws known as 'network codes' that regulate the use of gas networks.

These new rules, known as the 4th binding EU Network Code for the gas sector – were developed in cooperation with national energy regulators and network operators (ACER and ENTSOG). They align the complex technical procedures used by network operators within the EU, the Energy Community and other countries neighbouring the EU.

The rules cover ways in which network operators manage gas flows across borders, deal with differences in gas quality and exchange data between themselves and market players. By easing the flows of gas across the continent, this network code will contribute to security of supply and competitive prices for customers. Every year the European Commission publishes a progress report on achieving a single internal market for gas and electricity. The 2014 report found an increase in cross-border trade in gas and a more efficient use of gas pipelines, thanks to common rules on the use of gas networks.

Offshore Wind Power Seen Growing by Record 4.2 Gigawatts in 2015

According to a Bloomberg New Energy Finance report, wind-power developers are expected to install a record 4.2 gigawatts of offshore turbines this year. That's double the 2.1 gigawatts added in 2013, with Germany expected to lead installations in coastal waters with more than 2.3 gigawatts this year, followed by 1 gigawatt in the U.K., as the London-based research company said in its report.

The jump comes after delays last year shifted some project completions into this year, and will continue to grow year-on-year until at least 2020 as the technology becomes more accepted, Tom Harries, a wind analyst for BNEF in London, said in an interview. He also said that there's increased confidence that the technology is working and the cost of the technology is coming down.

The total amount of offshore wind power in operation will reach 48 gigawatts by 2020, growing at a compound annual rate of 53 percent, according to the report. Installing turbines in the harsh marine environment is more challenging than on land, making the electricity more expensive. The levelized cost of energy for offshore wind farms is now about $179 a megawatt-hour, down from $202 in the second half of last year, in part because of currency fluctuations, according to the report. Onshore wind power costs about $85 a megawatt-hour.

15 Energy infrastructure projects receive EU funding

The EU's Innovation and Networks Executive Agency (INEA) has signed 15 grant agreements for priority energy infrastructure projects in Europe. These projects are the first of 34 projects to receive a total of €647 million under the EU's Connecting Europe Facility 2014 call for proposals.

The projects – which are part of one of the 248 Projects of Common Interest selected by the European Commission - aim to upgrade existing energy infrastructure and develop new energy transmission infrastructure of crucial importance to Europe's energy security. They will also support the deployment of large-scale renewable energy.

One of the 15 projects centers on boosting electricity interconnection between France and the UK. The EU's contribution of €1.7 million will cover half of the cost of a set of studies needed before construction on interconnectors can begin. In Bulgaria, a grant of €279,000 will go towards studies paving the way for the construction of three internal electricity lines in the country. Another project – Front End Engineering Design – will receive a grant of €1.8 million to prepare designs, technical detail and administrative work needed for the construction of a new offshore LNG facility in Greece and its connection to the national natural gas transmission system.

EU and South and East Mediterranean partners step-up energy relations

European Commissioner for Climate Action and Energy, Miguel Arias Cañete, and the Moroccan Minister for Energy, Abdelkader Amara, have unveiled three new Euro-Mediterranean platforms on gas, the regional electricity market, and renewables and energy efficiency.

"Our regions often have to face similar energy challenges. We need to work together to create common solutions. These three platforms represent a true challenge, but I am confident that with the participation and engagement of all our partners they will be a success," Arias Cañete said.

The platforms will facilitate partnerships between stakeholders and strengthen cooperation between the countries of the Union for the Mediterranean.

On gas, the cooperation platform will discuss how to develop gas production in North Africa and eastern Mediterranean countries for their domestic markets and for export to the EU. It will also debate regulatory, financing and infrastructure issues, such as new pipelines and LNG facilities in order to create a Mediterranean gas hub.

The regional electricity market platform will center on gradually removing technical, regulatory, and infrastructure barriers to the free trade of electricity across international borders. Trading electricity freely in the Mediterranean region would boost energy security by diversifying supply and increase competition between power generators.

On renewable energy and energy efficiency, the platform will analyse how to promote the right regulatory frameworks and markets to encourage investments in renewables and energy efficient practices. It will also exchange best practices in areas including measuring energy efficiency, developing national energy efficiency plans, enforcing energy codes for buildings and defining minimum energy performance standards for appliances.

US Power Grid's $2 Trillion Upgrade Needs European Efficiency

A $2 trillion push in the U.S. to blend renewable energy into the power supply and fortify transmission lines against extreme weather means that Americans must act more like Europeans to keep their power costs down.

Even with electricity rates as much as three times higher than what the average American pays, French, Italian and German consumers still enjoy lower monthly bills. That's because they use less energy due in large part to new smart technology, smaller homes, denser populations and more efficient appliances.

The U.S. government and the energy industry are now taking the first steps toward that goal, with smart thermostats, more efficient air conditioning and systems that better regulate power grid fluctuations. Still, the U.S., ranks only 13th of 16 countries in energy efficiency among the world's major economies, according to the American Council for an Energy- Efficient Economy.

Jon Wellinghoff, a former U.S. Federal Energy Regulatory Commission chairman, said in an interview that they need to stop looking at rates and start looking at bills and that increased efficiency in energy use would create "some level of savings" that could help fund system upgrades that might require a whole hell of a lot of money up front.

Boosting efficiency is a key piece of President Barack Obama's plan to combat climate change, which seeks a 30 percent reduction in carbon emissions from existing power plants by 2030. It also makes good business sense. Investments in energy conservation are cheaper than building expensive new power plants to meet electricity demand. In the U.S., investments in the power grid lag Europe. According to data compiled by Bloomberg New Energy Finance, since 2000, the U.K., Italy, Spain, France and Germany have spent a combined $150.3 billion on energy-efficiency programs, compared with $96.7 billion for the U.S. The U.S. grid, described as the most complicated machine in the world, needs about $2 trillion in upgrades by 2030, according to a report this month from the Rocky Mountain Institute, a Snowmass, Colorado-based energy consultant.

U.S. power companies are beginning to step up. Power sellers in Texas and the U.S. Northeast are offering smart thermostats such as Google Inc.'s Nest in exchange for signing long term contracts. The device, which memorizes and automatically adjusts to users' preferences, can save customers as much as 15 percent on cooling bills, according to Google. "Historically, the input costs for generating much of the electricity in Europe have been higher than in the United States, which in turn makes electricity prices on a per unit basis higher," said Andrew Colman, a managing director of Black & Veatch, an infrastructure consulting and construction firm. "These higher prices spurred the development of energy efficiency measures."

Some of the tools to offset price increases by boosting efficiency are already in place. In the U.S., 32 states either pay utilities for lost revenue from energy efficiency programs or have decoupled power company profits from the amount of electricity sold, according to the Edison Foundation Institute for Electric Innovation, a Washington-based industry group.

ANTITRUST

- **<u>Statement of Objections to Gazprom for breaking antitrust rules</u>**

The European Commission has sent a Statement of Objections to Gazprom alleging that some of its business practices in Central and Eastern European gas markets constitute an abuse of its dominant market position in breach of EU antitrust rules.

On the basis of its investigation, the Commission's preliminary view is that Gazprom is breaking EU antitrust rules by pursuing an overall strategy to partition Central and Eastern European gas markets, for example by reducing its customers' ability to resell the gas cross-border. This may have enabled Gazprom to charge unfair prices in certain Member States. Gazprom may also have abused its dominant market position by making the supply of gas dependent on obtaining unrelated commitments from wholesalers concerning gas transport infrastructure. Gazprom now must reply to the Statement of Objections and can also request an oral hearing to present its arguments. The Commission will fully respect Ga*zprom*'s rights of defense and carefully consider its comments before taking a decision. Sending a Statement of Objections does not prejudge the final outcome of the investigation.

EU Commissioner in charge of competition policy Margrethe Vestager said: "Gas is an essential commodity in our daily life: it heats our homes, we use it for cooking and to produce electricity. Maintaining fair competition in European gas markets is therefore of utmost importance.

All companies that operate in the European market – no matter if they are European or not – have to play by our EU rules. I am concerned that Gazprom is breaking EU antitrust rules by abusing its dominant position on EU gas markets. We find that it may have built artificial barriers preventing gas from flowing from certain Central Eastern European countries to others, hindering cross-border competition. Keeping national gas markets separate also allowed Gazprom to charge prices that we at this stage consider to be unfair. If our concerns were confirmed, Gazprom would have to face the legal consequences of its behaviour."

Gazprom is the dominant gas supplier in a number of Central and Eastern European countries. In light of its investigation, the Commission's preliminary view is that Gazprom is hindering competition in the gas supply markets in eight Member States (*Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland* and *Slovakia*). The Commission finds that Gazprom implements an overall abusive strategy in these gas supply markets, in particular: Gazprom imposes **territorial restrictions** in its supply agreements with wholesalers and with some industrial customers in above countries. These restrictions include export bans and clauses requiring the purchased gas to be used in a specific territory (destination clauses). Gazprom has also used other measures that prevented the cross-border flow of gas, such as obliging wholesalers to obtain Gazprom's agreement to export gas and refusing under certain circumstances to change the location to which the gas should be delivered. The Commission considers these measures prevent the free trade of gas within the European Economic Area (EEA).

These territorial restrictions may result in higher gas prices and allow Gazprom to pursue an **unfair pricing policy** in five Member States (*Bulgaria, Estonia, Latvia, Lithuania* and *Poland*), charging prices to wholesalers that are significantly higher compared to Gazprom's costs or to benchmark prices. These unfair prices result partly from Gazprom's price formulae that index gas prices in supply contracts to a basket of oil product prices and have unduly favoured Gazprom over its customers. Gazprom may be leveraging its dominant market position by making gas supplies to *Bulgaria* and *Poland* conditional on obtaining un-related **commitments from wholesalers concerning gas transport infrastructure**. For example, gas supplies were made dependent on investments in a pipeline project promoted by Gazprom or accepting Gazprom reinforcing its control over a pipeline.

The Commission's provisional findings are that these practices constitute an abuse of Gazprom's dominant market position prohibited by Article 102 of the Treaty on the Functioning of the European Union (TFEU). Such behaviour, if confirmed, impedes the cross-border sale of gas within the Single Market thus lowering the liquidity and efficiency of gas markets. It raises artificial barriers to trade between Member States and results in higher gas prices.

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