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M&A Law Firm sponsors the Athens Conference on European Energy Law and Policy, hosted by the Florence School of Regulation and the Hellenic Energy Regulation Institute

The Hellenic Energy Regulation Institute organizes the “Athens Conference on European Energy Law and Policy”, an important scientific event dedicated to the major legal and political issues arising in the context of the EU electricity and natural gas markets, which will be held on the 30th of September 2016 in the Athens Chamber of Commerce and Industry, we are seizing the opportunity to send you the present invitation to sponsorship.

The said conference constitutes a joint initiative of the ‘Hellenic Energy Regulation Institute (HERI) and the world-renowned in the field of energy regulation academic institute ‘Florence School of Regulation’, which, in addition to its extensive academic research output, serves as an influential think tank, often advising the European Commission during the elaboration of EU policies pertaining to the full range of network economies.

The conference will be attended by the major scientific and institutional actors operating within the EU energy market, as well as some of the prominent academic researchers in the field of energy regulation. Sir Philip Lowe, who has served as Director-General for Energy and Competition and is currently Senior Adviser at FTI Consulting, will give the keynote address. Among the speakers who have thus far confirmed their attendance are Univ.-Prof. Dr. Dr. Dres. h.c. Franz Jürgen Säcker, Director of the ‘Institute for Energy and Regulatory Law Berlin’ and leading energy regulation specialist at the international level, Mr. Alberto Pototchnig, Director of the Agency for the Cooperation of Energy Regulators (ACER) and Professor Leigh Hancher, Director of the Florence School of Regulation’s Energy Law & Policy Department.

The agenda of the conference comprises the following four timely topics:

- The future of coal and lignite in the EU following the Paris Agreement
- Energy security and transnational natural gas pipelines – Do third countries, non EU Member States fall within the scope of application of EU energy law
- Latest EU regulatory framework on renewables from 2020 onwards
- The future role of Distribution System Operators (DSOs)

The detailed agenda of the Conference will soon be made available on the official [website](#) of the Hellenic Energy Regulation Institute.

For further information, please on the Conference, please click [here](#).

In order to register for the event, please click [here](#).

M&A Law Firm delivers complex advice on the restructuring of a multi million regional state aid scheme

Metaxas & Associates Law Firm was assigned to review the restructuring of Greece's existing state aid scheme for a large number of businesses in the regions of Northern Greece.

In our expertise in the state aid rules and regulation and pursuant to the article 107 of the TFEU and the EU Regulation No. 651/2014, our firm has been asked to advise on the restructuring of the country's legislation in place, to amend the discrepancies therein and attain a new form of legislative measure, fully compliant with EU state aid rules, so that regional businesses can be legally deemed eligible to receive the relevant aid.

M&A Law Firm advises major industrial clients and electricity suppliers on the recent amendment of the Electricity Supply Code

Metaxas & Associates Law Firm addressed various legal issues arising from the recent amendment of the Energy Supply Code. More specifically, our firm advised on the new provision pertaining to the customers' right to terminate the supply contract, whereas we evaluated its compliance with the Greek and European competition, constitutional and state aid law.

M&A Law Firm's contribution to the Greek Law Digest 2016 Guide on the normative framework of the Energy Regulation in Greece

Metaxas & Associates Law Firm participated for yet another time in "Greek Law Digest - The Official Guide to Greek Law", which was published under the auspices of the Greek Ministry of Economy, Development and Tourism, the Enterprise Greece Organization, the Hellenic Republic Asset

Development Fund and the Athens Chamber of Commerce and Industry (ACCI). The said initiative constitutes a harmonized effort to promote our country abroad and attract the interest of foreign investors. The Guide seeks to serve as a useful tool for any prospective investors wishing to engage in any business plan or activity, either individually or collectively.

Our Law Firm was in charge of drafting the chapter on the analysis of the normative framework governing Energy Regulation in Greece and the legal parameters of the liberalization of the Greek electricity and natural gas market.

For further information, please click [here](#).

State Aid

Commission clarifies scope of EU State aid rules to facilitate public investment

The European Commission published guidance on when public spending falls within, and outside, the scope of EU State aid control. This guidance will help public authorities and companies to identify when public support measures can be granted without needing approval under EU State aid rules.

The Notion of Aid Notice is the last part of the Commission's State Aid Modernization initiative, launched in 2012. As part of its State Aid Modernization, the Commission has already updated all major State aid guidelines and simplified the rules so that unproblematic aid measures can be implemented without prior Commission scrutiny. The overall purpose is to provide legal certainty and cut red tape for public authorities and companies, and focus the Commission's resources on enforcing State aid rules in cases with the biggest impact on the Single Market.

The Notice will in particular facilitate public investment in the European Union by helping Member States and companies to design public funding in ways, which do not distort competition. It gives clear guidance on when public investments do not involve State aid, notably because they do not risk distorting the level playing field in the Single Market or risk crowding out private investment. This will help maximize the effect of investments on economic growth and jobs, in line with the Commission's Investment Plan for Europe to mobilize at least €315 billion over three years in private and public investment across the EU.

Besides providing clarifications on a number of points particularly important for public investment, the Notice gives general guidance on all aspects of the definition of State aid. It does so by systematically summarizing the case law of the EU courts and the Commission's decision-making practice.

The Notion of Aid Notice includes key clarifications on the following:

- Public investment for the construction or upgrade of infrastructure is free of State aid, if it does not directly compete with other infrastructure of the same kind. Even if infrastructure is built with the help of State aid, there is no aid to its operator and users if they pay a market price. EU state aid control focuses on public investments that have effect cross-border.
- Public financing of certain cultural activities, which are not commercial but provided for free, or against a minimal fee, will not be covered by State aid rules.
- If public authorities buy goods or services through tenders, which respect EU rules on public procurement, this is in principle sufficient to ensure that the transaction is free of State aid.

For the text of the Notice, please click [here](#).

Investment Plan for Europe: EFSI supports almost € 200 million investment in renewable energy sector

The European Investment Bank (EIB) and Landesbank Saar (SaarLB) signed a EUR 100 million guarantee agreement yesterday, which is designed to grant SaarLB additional scope to invest in the renewable energy sector. This transaction benefits from the support of the European Fund for Strategic Investments (EFSI), the heart of the Investment Plan for Europe, and will facilitate SaarLB making almost EUR 200 million worth of additional loans available for renewable energy projects.

Maroš Šefčovič, Vice-President for the Energy Union, said:

"The energy transition will only succeed in Europe if we think beyond national borders and work together. SaarLB is doing precisely that by financing renewable energies in Germany and France. I am pleased that the European Union is able to contribute to this through the EIB and the so-called Juncker Plan."

For more information on the Investment Plan, please click [here](#).

Commission clears € 2.13 billion aid to alleviate social and economic impact of closing 26 uncompetitive coal mines in Spain

The Commission has found Spanish plans to grant €2.13 billion for the orderly closure of 26 uncompetitive coal mines to be in line with EU state aid rules. The aid aims to alleviate the social and environmental impact of the mine closures without unduly distorting competition in the Single Market.

In April 2016 Spain notified plans to grant public support to the operators of 26 coal mines that are due to be shut down until 2018. The aid aims to ease the closure process by covering production losses of the mines until closure. It will also provide financial support to those workers, who have lost or will lose their jobs due to the closures, by funding severance payments and social security benefits. Furthermore, it will finance the safety and remediation works necessary after the mine closures.

The Commission concluded that the plans are in line with EU state aid rules, in particular Council Decision 2010/787/EU. This allows Member States to cover production losses and certain exceptional costs arising from the closure of uncompetitive coalmines, in order to alleviate the social and environmental impact. This requires in particular that the end of 2018 at the latest must wind down mines receiving such aid.

The Spanish authorities have given a commitment to recover any aid from mines that have not been closed by that date.

New publications of state aid decisions on the Internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

Energy

EU Environment Ministers recognize need for a bold reform of the EU carbon market

Key EU Environment Ministers discussing the reform of the EU Emission Trading Scheme (ETS) after 2020 acknowledged that the Paris Agreement created new conditions for this process, and called for ensuring that a review of the level of ambition in the ETS takes place in the near future.

In reaction to the debate at the Environment Council today, Wendel Trio, director of Climate Action Network (CAN) Europe said:

"The Ministers discussed the obvious: the ETS needs an overhaul to be in line with the Paris Agreement goals. Ministers stressed the need for a five-year review clause in the ETS Directive, to be able to adapt it to the potential increase of the EU climate target for 2030. It is high time for the EU leaders to step forward and accept that the Paris Agreement requires a revision of all EU policy tools, including the ETS in due time. Only bold reforms can turn the ETS into a functioning policy tool. It is painfully obvious that with the weak reform proposals currently on the table, the ETS will not drive any emission cuts for many years to come, let alone help the EU meet the ambitious Paris Agreement goals."

Ministers from several EU countries, including Austria, Belgium, France, Germany, Luxembourg, Sweden and the UK intervened on the need to bring the ETS in line with the Paris Agreement, and called for a review clause to be included in the ETS Directive, the EU to be prepared for the UNFCCC review in 2018, efforts to increase the low carbon price or raising the Linear Reduction Factor, amongst others.

According to CAN Europe, in order to align the ETS with the Paris Agreement and keep the 1.5°C Paris goal within reach:

- the massive glut of surplus pollution permits should be permanently cancelled (by 2020, the ETS surplus will have grown to up to 4.4 billion – EU's annual emissions which under current rules can be fully carried over to the next trading period);
- both the 2030 target and the annual Linear Reduction Factor should be substantially raised in the run up to the next UN political moment in 2018 and then revised every five years;
- the starting point for reductions after 2020 should be at actual emissions level (projected to be around 38% below 2005 emissions by 2020).

EU invests €263 million in energy infrastructure

In July 15, 2016, EU Member States agreed on the European Commission's proposal to invest €263 million in key European energy infrastructure projects. The lion's share of the investment will support the building of gas infrastructure in the Baltic Sea region as well as supporting the electricity sector across Europe. Nine projects were selected following a call for proposals under the EU funding support program the Connecting Europe Facility (CEF). The selected priority projects aim to increase energy security, connect the isolated EU Member States to the wider European grid and contribute to the Energy Union objectives of affordable, secure and sustainable energy.

In the gas sector, the European grants will cover the construction of the Baltic connector (EU support €187.5 million), the first gas pipeline linking Estonia to Finland. Once completed, the interconnector will end the dependence of Finland from a single gas supplier strengthening the security of supply in the Eastern Baltic Sea region.

Furthermore, works to enhance the Estonian-Latvian interconnection will be financially supported (EU support €18.6 million). The enhancement of Estonia-Latvia interconnection will enable better access to storage in Latvia, ensure a more diverse natural gas transmission network in the Baltic Sea region and further enable the Baltic connector project.

In the electricity sector, the list will include the construction of a new 100 km electricity line between Dobrudja and Burgas in Bulgaria that will strengthen the resilience of the Bulgarian electricity grid. The European support to this new power line amounts to €29.9 million.

Furthermore, EU support is given to develop preparatory study for a secure and reliable operation of the Baltic States' power system (EU support €125,010), a study on the gas interconnection at Nea Messimvria in Greece (EU support €243,250). The metering and regulating station will help connect the Greek natural gas transmission system with the Trans-Adriatic Pipeline (TAP) bringing natural gas from the Caspian Sea.

Of the 9 proposals selected for funding:

- 5 are in the gas sector (EU support worth €210 million) and 4 are in the electricity sector (EU support worth €53 million).
- 3 relate to construction works (€236 million) and 6 to studies (€27 million).

With a total of €800 million available for grants under Connecting Europe Facility – Energy in 2016, the second 2016 call for proposals with an indicative budget of €600 million is currently ongoing and will close on 8 November.

Bad news for Greek Ship-owners? The tonnage tax under the European Commission's microscope

Upon completion of a long-winded *ex officio* inquiry into the Greek taxation regime for shipping, the European Commission found that the pertinent legal framework includes certain provisions that may be deemed incompatible with EU state aid rules and, in particular, with the '*EU State Aid Guidelines for Maritime Transport*' (Commission Communication C (2004) 43), which seek to maintain a level playing field for shipping within the European Union. Accordingly, by virtue of Decision C (2015) 9019 *final* of 18.12.2015, the Commission addressed a set of proposals to the Greek government, calling for the amendment of the said framework in such a manner as to achieve its compliance with the aforementioned EU rules.

The Commission's inquiry focused primarily on Law 27/1975 '*on the taxation of ships, application of a duty for the development of merchant shipping, establishment of foreign shipping companies and related matters.*' According to the said law, owners and managers of Greek-flagged vessels, as well as foreign vessels above 500 tons involved in international transportation and managed from Greece, are eligible for tonnage taxation. The payment of tonnage tax constitutes fulfillment of all liability of the ship-owner and the shareholders of the relevant entities in respect of income tax on profits derived from the operation of ships.

The Commission has voiced its concerns that the above-described tonnage tax scheme - which, it is noteworthy to mention, paved the way for the adoption of equivalent regimes in many other European countries - is not well-targeted, in so far as it benefits the shareholders of shipping companies beyond what is permitted under the Maritime Guidelines. The Commission noted in particular that the exemption from taxation of capital gains from the sale of tonnage-taxed ships, of dividends paid by shipping companies and of capital gains related to shares in shipping companies, together with the exemption from inheritance tax and the tax benefits granted to wider maritime cluster companies under Law 27/1975, are all measures which constitute State aid within the meaning of Article 107(1) TFEU. The Commission also drew attention to the preferential tax treatment targeted at various maritime intermediaries and shareholders of shipping companies - none of which conduct genuine maritime transport activities.

In this instance, it is worth noting that the Greek tonnage tax scheme was put in place in 1975, i.e. before the country's accession to the European Union in 1981. It is therefore considered as "existing aid" and hence subject to a specific cooperation procedure, whereby the Commission, together with the competent

national authorities, will have to jointly explore how to amend the current regime, so as to eliminate distortions of competition within the internal market. In particular, the Commission asked the Greek authorities to revoke or modify the contested legislation within two years period of time and in a manner that ensures compatibility with the EU regulatory framework on State aid.

While the relevant negotiations are still ongoing, the shipping sector has been lobbying the Commission in support of maintaining the *status quo*. On the other hand, the European Commissioner for Transport, Ms Violeta Bulc, recently stated in a joint press conference with the presidency of the UGS that there is no intention of changing the existing guidelines on the taxation of shipping activities. It is thus still possible that, following a failure to reach an agreement with the Greek State with regard to the proposed measures, the Commission will eventually open a formal State aid investigation.

The contested Commission decision is maintained to present critical gaps, scientifically questionable arguments and contradictory reasoning. This could act in favor of forming a targeted legal argumentation, which could potentially set aside or at least mitigate key elements of the Commission's legal position and utilize the procedural particularities of the categorization of the measures at issue, to characterize them as existing measures (existing aid) and not new state aid (new aid).

Antitrust

Commission fines Romanian Power Exchange OPCOM for discriminating against EU electricity traders

The European Commission has imposed a fine of just over € 1 million on S.C. OPCOM S.A. for abusing its dominant position in the Romanian market for facilitating electricity spot trading, in breach of EU antitrust rules. OPCOM operates the only power exchange in Romania. Power exchanges are organized markets for trading electricity. Spot trading means trading in the short run (e.g. within the same day or for the next day). The Commission found that OPCOM discriminated against EU-based electricity traders from outside Romania for over five years.

Joaquín Almunia, Commission Vice President in charge of competition policy, said: "Power exchanges are key to the efficient functioning of energy markets, in the best interest of consumers. OPCOM's abusive behavior prevented EU traders from joining the Romanian power exchange's spot markets, creating an artificial barrier to entry in breach of EU competition rules. National barriers of this type do

not only hamper the completion of a Single Market in energy, but also stand in the way of the development of efficient, liquid markets." (see also the statement)

Between 2008 and 2013, OPCOM required members of the spot electricity markets to have a Romanian VAT registration, refusing to accept traders that were already registered for VAT in other EU Member States. As a result, EU traders could only enter the Romanian wholesale electricity market by setting up a fixed establishment in Romania, which entailed additional costs and organizational disadvantages for EU traders compared to Romanian traders. Discrimination on grounds of nationality or place of establishment is against the basic principles of the Single Market.

Power exchanges play an important role in providing public price information. This is crucial to achieve transparent and reliable electricity prices on the wholesale and retail markets. OPCOM's VAT registration requirement created an artificial barrier to market entry for EU traders and in turn reduced liquidity on the wholesale electricity market. The number of affected traders is significant. On power exchanges in comparable markets, over 50 % of the participants are EU traders without local VAT registration.

The Commission also holds OPCOM's parent company CNTEE Transelectrica S.A. liable for the infringement. Transelectrica is the operator of the Romanian electricity transmission system.

Removing barriers to entry in wholesale electricity markets improves liquidity and fosters competition, which leads to a downward pressure on prices. It also ensures that the market sends correct price signals.

EU takes legal action against export restrictions on Chinese raw materials

The European Union launched a third case against China's restrictions on export of raw materials essential for European industries.

Following the successful legal actions in 2012 and 2014 on similar measures, this time the EU is focusing on restrictions concerning graphite, cobalt, copper, lead, chromium, magnesia, talcum, tantalum, tin, antimony and indium.

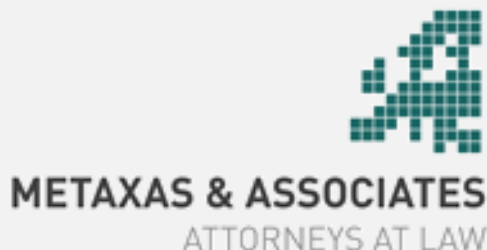
"We cannot sit on our hands seeing our producers and consumers being hit by unfair trading practices. The past two WTO rulings on Chinese export restrictions have been crystal clear - these measures are

against international trade rules. As we do not see China advancing to remove them all, we must take legal action," said EU Trade Commissioner Cecilia Malmström.

China currently imposes a set of export restrictions, including export duties and export quotas that limit access to these products for companies outside China. These measures have distorted the market and favored Chinese industry at the expense of companies and consumers in the EU, in violation of general WTO rules and also of China's specific commitments from the time of its accession to the WTO. Also, their alleged aim to support an environmentally friendly and sustainable production of raw materials could be achieved more effectively with other measures, without negative impact on trade.

The formal consultations between the EU and China – the first step in the WTO dispute settlement - will be conducted in parallel to a similar procedure initiated by the US. In absence of a satisfactory solution within 60 days, the EU may request the WTO to set up a panel to rule.

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