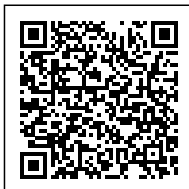


THE POWERS DRIVING BRAZIL'S ENERGY REVOLUTION - MLGTS

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A rapidly expanding economy, a growing population, and rising global fuel costs, mean that questions over security and supply are inevitably affecting Brazilian energy planning, say Eduardo Soares, Débora Yanasse and Otávio Falchero, at Mattos Filho Veiga Filho Marrey Jr e Quiroga Advogados (MF), Nuno Galvão Teles and Joao Ribeiro da Costa, at Moraes (MLGTS).

"The trend we are clearly seeing in terms of energy policy in Brazil is towards the greater use of biofuels and renewables and in this respect, the country is playing a lead role in the global energy revolution," says Débora Yanasse, associate at MFVFMQ and João Ribeiro da Costa, a São Paulo-based associate at Portugal's MLGTS.

Brazil's energy infrastructure, is capitalising not only on the latent potential of its vast network of rivers to produce hydroelectric energy, and wind power potential, but has emerged as a world leader in the use and development of biofuels, explains Nuno Galvão Telles.

"Brazilian sugarcane ethanol has proven to be a most efficient biofuel in terms of production costs, energy balance, land use and environment impact," agrees Eduardo Soares, partner at MF in São Paulo.

"But the Brazilian Government has also developed incentives for power generation projects based on other sources, such as biomass and wind power, which are less vulnerable to hydrologic conditions, and encouraged the development of smaller hydro plants, which are less vulnerable to hydrologic conditions, to increase the total energy offer available."

With sugarcane ethanol production concentrated in the central and south east of the country, especially in the State of São Paulo, the derivative sugarcane bagasse (the stalk residue left after the juice has been extracted) power plants have traditionally been located in the same regions, but this is also changing, says Soares.

"The national Government is improving the regulation to incentivise the construction of a new power transmission grid in the Brazilian Midwest, in Goiás and Mato Grosso, and to allow the development of sugarcane ethanol production and bagasse power generation there too. But the same incentives are also prompting the development of other new types of power generation, and bringing new legal issues."

Wind plants are now being constructed in the northeast and south of the country, where there is an estimated 143GW potential, while small hydro plants are emerging all over the country, and there is now the construction in the north east of Brazil of new biomass power plant projects.

"The recent investment grade status achieved by Brazil is allowing a more intense international capital flow to the country, and this is being seen in an upturn in the energy sector."

Eduardo Soares, Mattos Filho Veiga Filho Marrey Jr e Quiroga

Incentives

To help facilitate this diversification of Brazil's energy portfolio, the Brazilian Government has created a growth acceleration programme (Programa de Aceleração do Crescimento - PAC), explains Otávio Falchero, associate at MF.

"The aim is to increase investments in infrastructural projects, including energy projects, by means of federal tax and specific finance credits offered by the Brazilian Development Bank (Banco Nacional de Desenvolvimento Económico e Social BNDES)."

In relation to renewables, there is also now the Federal Proinfa (Programa de Incentivo às Fontes Alternativas de Energia Elétrica), which assures the purchase of energy produced from alternative sources by state-owned Eletrobrás for 20 years, along with special financial support by BNDES.

"Renewables projects also receive discounts on energy transportation costs and may sell carbon credits, while the Government has supported public auctions to sell energy from renewable power plants," Yanasse adds. "There are also regional tax incentives (such as in Goiás and Bahia) to encourage the production of ethanol, while further Federal incentive programmes are awaiting approval by the Brazilian Congress."

The Brazilian national energy regulator, Agência Nacional de Energia Elétrica (ANEEL), and the National Petroleum Agency, Agência Nacional do Petróleo, Gás Natural e Biocombustíveis (ANP), inevitably also play a significant role.

"They are important particularly in relation to the implementation of these incentive policies, in terms of the technical and commercial issues, but also to help create the necessary security and stability to attract more private investment into the sector," says Soares.

The combined result, they say, is that Brazil is seeing new investment from both domestic and international energy companies, and even private equity funds and investment funds, in biofuels and renewables projects.

"The recent investment grade status achieved by Brazil is allowing a more intense international capital flow to the country, and it is only inevitable that this is being seen in an upturn in energy sector mergers, acquisitions, and in the constitution of new energy companies," says Soares (MF) and Galvão Telles (MGLTS).