

ENERGY LAW UPDATE

17th October 2012

ITALIAN NATIONAL STRATEGY ON ENERGY

The Italian Government has issued the final draft of the new National Strategy on Energy on which a public consultation has been just launched.

The National Strategy on Energy provides objectives and targets in respect of energy efficiency, gas production development, renewable energy development, sustainable production of energy production from Italian fossil sources, development of the governance in the energy sector.

A. Introduction

The Ministry for the Economic Development has submitted to the Ministries Council the final draft of the Italian National Strategy on Energy ("NSE"), on which now the public is called to provide comments and suggestions to the targets that will serve in the next future for the Italian development of the energy industries.

The public consultation (unfortunately in Italian only) is accessible at the following link:

<http://adisurv.sviluppoeconomico.gov.it/limesurvey/index.php?sid=94726&lang=it>

The final draft of the NSE provides guidelines in respect of the following 7 targets in the energy sectors:

- (i) Energy efficiency;
- (ii) Development of gas production and improvement of Italy as European hub for gas distribution;
- (iii) Sustainable development of renewable energy;

- (iv) Development of the electricity market;
- (v) Restructuring of the oil-refining industry;
- (vi) Sustainable production of energy from Italian fossil sources;
- (vii) Development of a modern governance mechanism.

This note will focus on the various targets and on the plans to reach such targets by 2020.

The NSE aims at:

- (a) the alignment of the Italian prices to the European average for the various energy sources;
- (b) costs saving of approximately euro 14 billion per year;
- (c) investments for approximately euro 180 billion by 2020 in the green and white economy (renewable sources and energy efficiency) and in the fossil sources (national grid, regasification, oil & gas storage, development of fossil sources);
- (d) reduction by 19% of greenhouse gas emission;
- (e) 20% of production from renewable sources.

The NSE intends to provide also important guidelines for the compliance of Italy with the *EU Energy Roadmap 2050*.

B. Energy Efficiency

The energy efficiency is considered one of the first target of the NSE to improve the energy saving and the reduction of greenhouse gas emission.

The target will be reached through and supported by:

- (i) the strengthening of minimum standards and of the legislation especially in the construction industry and transport;
- (ii) tax allowance in connection with construction;
- (iii) improvement of the *White Certificates* system.

The NSE considers investments of approximately euro 15/20 billion for the energy efficiency.

C. Development of gas production and improvement of Italy as European hub for gas distribution

The development of the local gas market will result in the reduction of approximately 25% of the price difference between Italy (improving also the CCGT sources) and other European countries and will improve the Italian purchasing sources of gas.

The target will be reached amongst the others through:

- (i) full use of the transmission system;

- (ii) realization of strategic infrastructure in respect of import and storage systems through simplified authorisation procedures;
- (iii) realization of import infrastructures such as gas pipelines and LNG terminals;
- (iv) improvement of storage capacity.

D. Sustainable development of renewable energy

The NSE plans to exceed the European target by 2020 and to reach the 20% of the consumption.

In respect of the electricity production, the NSE intends to support the industry (even with a reduction of the incentives to align them to the European level). With the new decrees on renewable sources (other than PV) and on photovoltaic sources, the Government has already allocated approximately euro 3,5 billion. In general terms and until 2020, Italy plans to invest approximately euro 50-60 billion for the industry.

In respect of the thermic production, the NSE plans to set up an incentive scheme for the smaller plants (with investments in the region of euro 900 million per year) and to support more the *White Certificate* scheme. The NSE foresees investments for approximately euro 15 – 20 billion until 2020.

In respect of the transport industry, despite the biofuel is still under discussion (in terms of efficiency) Italy confirms the target of 10% of biofuel by 2020 in compliance with the European plans and its commitment to cooperate for the revision of the relevant EU Directive.

E. Development of the electricity market

The NSE provides three main targets:

- (i) reduction of electricity costs especially through the improvement of the energy efficiency;
- (ii) full European integration (in compliance with the EU plans and the 2014 deadline);
- (iii) full integration of the production from renewable sources.

In terms of costs reduction, the Italian production comes mainly from renewable and gas sources and this is the actual trend also in those countries where the nuclear power has been recently dismissed (Germany, France etc.). The Italian production does not rely on the cheaper nuclear and coal sources and this is also one of the reasons of the high costs in Italy. The reduction of the incentives for renewable energy and the improvement of the gas production will have the direct effect of the reduction of the energy costs in Italy. At the same time, the current trend of former 'nuclear' countries will require the improvement of the production from CCGT in Italy.

The improvement of the Italian grid system will allow major integration of the production from renewable sources. As of today there is a huge difference between quantity produced and quantity purchased which determines a high level of instability of the grid.

F. Restructuring of the oil-refining industry

The NSE analyses the wide spread crisis of the oil-refining industry (as well as of the downstream sector) due to (i) the decreased demand; (ii) the replacement of oil derived products with methane; (iii) the guidelines of the *European Roadmap 2050*.

The NSE plans to implement:

- (i) The restructuring of the industry through simplified authorisation procedures for the reconversion of the refining plants;
- (ii) The promotion of investments aimed at obtaining an increased quality in the industry;
- (iii) The improvement of the environmental standard at European level.

G. Sustainable energy production from Italian fossil sources

Italy has considerable resources of oil and gas which are the largest after the North Europe countries.

The development of the national production capacity will be implemented through:

- (i) simplification of the authorisation procedures and the implementation of one single authorisation for exploration and production to be issued within a maximum period of time;
- (ii) guarantee of high environmental standards in the offshore exploration;
- (iii) improvement of and support to the most productive areas (located in the Emilia Romagna, Lombardy, Abruzzo and Basilicata Regions).

The NSE aim at increasing the gas production by 24 Million of BOE and the oil production by 57 Million of BOE by 2020 with investments for approximately euro 15 billion.

The final draft of the NSE makes it clear that:

- (a) Italy does not intend to develop any exploration of shale gas; and
- (b) The current limit of 12 miles for offshore exploration will be maintained.

H. Development of a modern governance mechanism

The Italian authorisation process is affected by various factors such as the separation of legislative power between State and Regions and the uncertainty in terms of timing for the issue of permits.

The NSE acknowledges that any national plan in respect of energy can be efficiently implemented only through:

- (i) A modification of the current legislative process which will reserve the legislative power of the central Parliament in respect of the energy legislation; and

- (ii) The provisions of modernised authorisation process.

In respect of the authorisation process, the NSE provides that:

- (a) For the strategic infrastructures the environmental impact assessment and the authorisation be carried out at central level (but with the participation of the Regions);
- (b) In case the Regions will not be efficient in the participation process, the central Government will take over the decision;
- (c) For non-strategic infrastructures, the authorisation process will remain at Regional level but the environmental authorisation and the construction permits will be resolved upon at one level only;
- (d) Specific guidelines will be enacted to provide certainty as to the authorisation procedure and its timing.

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This memorandum has been prepared by BDA - Studio Legale and it provides a summary of legal issues but it is not intended to give specific legal advice.

Further information and details on the renewable energy legislation in Italy are available upon request at broccoli@bdalaw.it