

# Investment Requirements in the Energy Sector: Prospects of Public and Private Sector Investment Partnerships

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\* Energy investments – a lawyer's view

# Outline

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- \* BLP's energy practice
- \* I. Why private sector investment?
- \* II. Global energy diversification
- \* III. Attracting private investment, particularly in projects market
- \* IV. Key messages

## BLP's energy practice

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- \* offices in London, Brussels, Paris, Singapore, Abu Dhabi and Moscow
- \* M&A transactions
- \* oil and gas
- \* power and water projects
- \* broad renewables practice
- \* regulatory and public sector advice
- \* competition issues
- \* dispute resolution

# I. Why private sector investment?

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- \* relieves burden on public funds
- \* introduces new capital and broadens local markets
- \* exploits private sector expertise, innovation and knowhow
- \* ideally leads to procurement and operational efficiencies
- \* frequently a catalyst for regeneration and economic development
- \* requires long-term pricing of risk, something public sector has historically not been good at
- \* it can usefully be made in many sectors – energy, infrastructure and other assets

## II. Global energy diversification

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- \* key drivers:
  - increased feedstock prices and feedstock shortages
  - growth in demand
  - need for energy security
  - meeting environmental concerns
- \* some movement away from gas
- \* coal/CCS
- \* assumption of Kyoto obligations
- \* move to renewables – wind, hydro, geothermal and solar
- \* increase of waste to energy, including biomass
- \* new nuclear programmes
- \* structural diversification – liberalisation, new regulatory frameworks and privatisation

# Benefits of diversification

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- \* there are benefits over and above energy security
- \* macro economic – creates increased spread of potential investment opportunities
- \* promotes the efficient use of resources – balances price and availability
- \* there are geographical benefits, especially for remote regions (and can avoid costly national infrastructure upgrades)

# Challenges of diversification

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- \* it needs public support, particularly nuclear
- \* there are serious R&D bottlenecks, especially for new technology
- \* as a result some technology is not as reliable as it could be (and so less bankable)
- \* higher upfront cost of renewables and cleaner technology (eg CCS)
- \* there can be timetable issues with experimental technology
- \* regulatory incentives and policy objectives need to keep abreast of developments in technology
- \* can bring with it the challenge of updating energy infrastructure (eg gas and electricity transmission networks) to accommodate new technology

## III. Attracting investment

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- \* market is not dead
- \* everyone has to work harder for funding

Consider:

- \* sources of funding
- \* funding structures
- \* developing attractive environments
- \* creating attractive assets

# International commercial banks

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- \* problems of capital and liquidity
- \* more about return of capital than return on capital
- \* there is huge competition for funding – a “flight to quality”
- \* currently margins 200-400bps over LIBOR
- \* protection of existing commitments and key client relationships is important
- \* allocation of additional risk to sponsors and government procurers
- \* importance of clubs and new funding structures

## Other sources of funds

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- \* balance sheet funding
- \* local commercial banks
- \* Islamic funding
- \* Export Credit Agencies
- \* multilateral funders
- \* sovereign wealth funds
- \* private equity
- \* infrastructure funds
- \* capital markets

# Funding structures

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- \* new innovative structures
- \* multiple sources now more common, creating more intercreditor issues
- \* bridge loans
- \* shorter tenor funding/mini perms
- \* greater equity funding
- \* initial government funding, with later switch over to private funding

# Attractive environments

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- \* key:
  - political stability
  - well developed legal institutions
  - predictable, transparent and efficient application of the law
  - protection of private capital and other assets
  - promotion of competition
  - investment in education and training for all
- \* selling points:
  - attractive tax/incentive regimes
  - minimum red tape
  - sector laws show understanding and commitment

# Attractive assets

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- \* strategic selection of attractive assets/projects
- \* high quality assets, whether corporates or projects, will be more attractive
- \* efficiently procured and run to timetable, avoiding delays
- \* have political commitment, possibly with government guarantees
- \* familiar contractual terms and risk allocation
- \* good pricing/tariff and returns
- \* consider term/tenor of debt
- \* size of projects can be an issue
- \* currently have benefit of tighter EPC pricing

## IV. Key messages

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- \* stimulate the market by diversification, both horizontal and vertical
- \* exploit Turkey's valuable geographical advantages
- \* continue to develop legislative and other frameworks, including the commercial law, PPP law and privatisation programme
- \* aim to offer high quality assets for investment
- \* ensure transactions are efficiently procured
- \* build on the significant progress made to date

# Contact

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