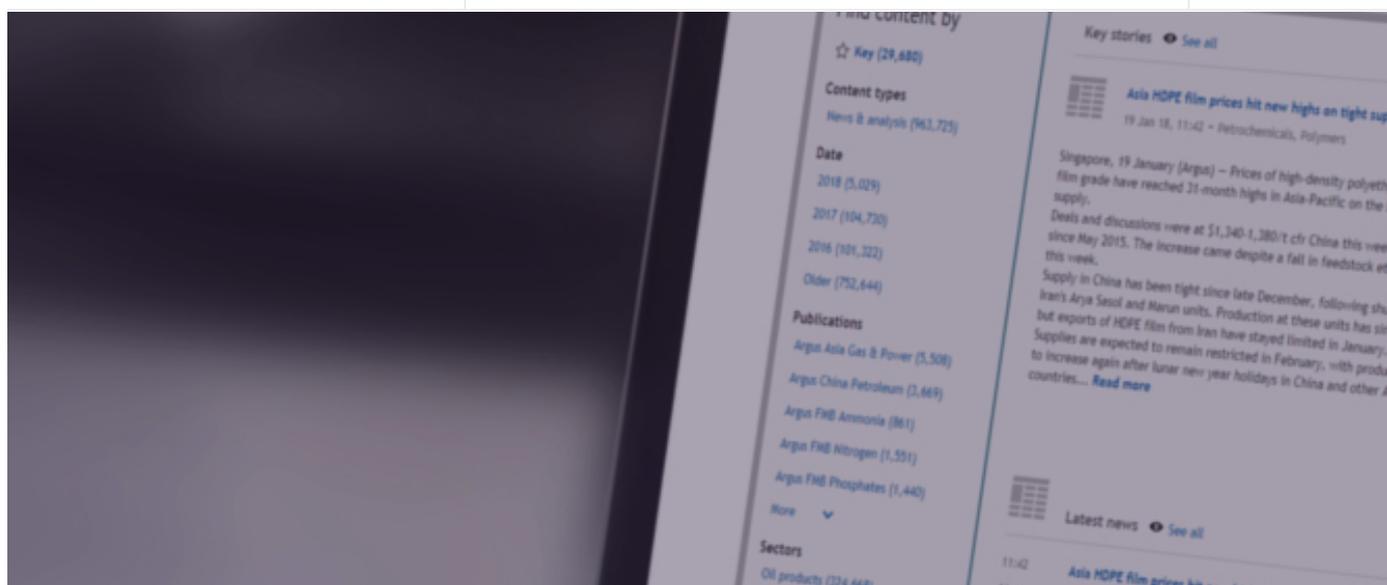




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Spain's power measures 'tilting

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perception in the sector. But they looked to be leaning towards local major utilities in the end, consultancy Ekon said.

Spain's centre-left coalition government approved several [emergency measures in September](#) through Royal Decree-Law (RDL) 17/2021 including a temporary gas clawback mechanism and mandatory power auctions for dominant market operators. The gas clawback proved particularly controversial, and would work in a similar way to the permanent [CO2 windfall profit mechanism](#) proposed in June, with non-emitting power-generating plants having to return alleged "excess revenues" earned from the impact of rallying gas and EU emissions trading system (ETS) prices on wholesale electricity prices.

But the government has since backtracked on the gas clawback plans following strong criticism from companies and associations, first by exempting generation supplied through long-term bilateral contracts not indexed to the wholesale electricity price — the Omie day-ahead pool — in a [reply to a question from grid operator REE](#). It then said that the exemption did not apply to internal contracts between generators and consumers or suppliers of the same company — meaning the clawback would continue to hit the revenues of Spain's large, vertically integrated power utilities, mainly Iberdrola, Endesa, Naturgy and EDP.

A month later, the government stepped back again and published another piece of

regulation, RDL 23/2021, clarifying that [intra-company supply would also be exempt if sold at fixed forward prices](#) — although all companies subject to the mechanism would now have to disclose their hedging information to energy regulator CNMC.

"Our clients being banks and developers, when this was first published, we literally spent the first two weeks on the phone trying to calm people down," Ekon director Steven Taylor told *Argus*. "I still think that RDL 17/2021 was one of the measures the government published in haste and was later thinking, 'How can we undo this?'"

CO2 bill, mandatory power auctions in check

The backtrack was welcomed by associations and utilities, which were confident that other controversial measures would also be changed.

Endesa was upbeat that the CO2 bill, which has been [discussed in parliament](#) in recent months, would undergo similar changes to the revision of the gas clawback, which resulted in the measure [having no impact on the company](#).

And although the government did not mention anything about the proposed mandatory power auctions for dominant

players in RDL 23/2021, Iberdrola chief executive Ignacio Galan recently said he did not expect the scheme to go ahead. "That was something that was going to be corrected — if the electricity is already sold forward, I don't know where this would come from," he said in a conference call with investors and analysts.

Under the scheme, Iberdrola, Endesa, Naturgy and EDP would be obliged to offer a substantial volume from their "emissions-free controllable generation" — effectively nuclear and hydro plants — through fixed-term contracts to smaller power suppliers and industrial clients. The first auction would take place before the end of the year, with [Iberdrola obliged to sell 7.32TWh, Endesa 6.74TWh, Naturgy 1.41TWh and EDP 364GWh](#).

"You can set up as many auctions as you like, but you can't force companies to take part in a meaningful way. Even if this does go ahead, it doesn't mean it is going to be successful, it doesn't mean it is going to happen along the guidelines the government would like it to happen," Taylor said.

And although the CO2 clawback bill might be implemented in the end and cause "some pain" to the major utilities, its effects would likely be far from what the government originally conceived, he said.

"It is going in the utilities direction and obviously part of that is related with the EU. It

is tilting toward the utilities," Taylor said.

The Spanish government initially expected revenues from the gas clawback to reach more than €2bn during the period it will be in force — from mid-September until the end of March 2022, although the value is now estimated to be much lower following the exemptions.

Spanish banks 'not worried'

For Ekon director Kim Keats-Martinez, the initial uncertainties raised in the sector by the interventionist measures seem to have dissipated in recent weeks.

"In general, we measure the degree of regulatory risk by talking to the banks, first with the Spanish ones, and they are not worried about the royal decrees. They are still financing projects," he said.

Fears that the measures might impact upcoming renewable projects in Spain or liquidity in the over-the-counter (OTC) power market are yet to be proved, with Keats-Martinez noting the effects of Covid-19 behind the [slowdown in renewable capacity additions](#).

"There are not a lot of projects coming to market because there are legislative delays, as Covid has caused a significant slowdown in the ability of local authorities to fully authorise

new renewable projects," he said.

And trading activity in the Spanish OTC power market has been strong in recent months, rising by nearly 58pc year on year in September to [19.084TWh](#) — the highest for that month since at least 2014, according to data from London energy brokers association Leba. The sharp price volatility seen in wholesale power markets in recent months has more than offset any weakness that the increased regulatory risk in Spain might potentially cause in forward trading as companies had to rebalance their positions, Spanish market participants told *Argus* then.

Liquidity was also strong in July and August, and although volumes fell in October, Spain recorded a [slower decline than most other markets](#).

"It's hard to disentangle the two impacts — prices are high, therefore we need to go to the market and cover our positions before prices increase even further; prices are high, the government intervenes. I expect the former to be more important than the latter," Keats-Martinez said.

For Taylor, all eyes will now be on the Spanish government, which could see its credibility affected after the recent back-and-forth in regulation.

"For us, the problem going forward is not so much what the impact is of RDL 17/2021 or RDL 23/2021 but that the government thinks

it can intervene in this manner," he added.

By Juan Weik

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