

Energy law details divide between state and private control of sector

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Beijing ☒ has revealed more details of its much-anticipated energy law, saying private sector involvement in the industry will be encouraged but state control will be maintained in areas linked to national security. Ye Rongsi, the deputy head of the law's drafting team, told *China Petroleum* magazine that state control would be maintained in areas deemed to be natural monopolies and those closely linked to national security and people's livelihood.

The law, first mooted in the 1980s, will provide a legal basis for a market-oriented energy industry and non-state sector involvement. Despite the mainland's huge appetite for energy, many private firms have been squeezed out of the market by state-owned giants which control the majority of fuel supply.

"We have instilled a 'market basis' legal principle in the draft and to achieve this, energy assets must not be entirely state-owned," Mr Ye said. "By stipulating a multiple ownership system, we can provide the condition for fair competition."

Mr Ye, also the head of the China Law Society's energy law study group, said the legislation would include rules ensuring a level playing field, including an approval system for mergers and acquisitions.

But the much-debated question of whether to set up a ministry of energy to streamline administration and enhance efficiency will not be answered until after new leaders are picked at the National People's Congress meeting in March next year.

"It has only been decided that we need to have one overriding energy administration," Mr Ye said. "It is not known whether it will be a newly set up body or an existing one."

Control of the sector is now divided among several government departments. The powerful National Development and Reform Commission has planning, project approval and price-setting authority while the Ministry of Land and Resources gives out mining licences.

The Ministry of Commerce approves foreign investment and the State Electricity Regulatory Commission monitors the power market. Drafting of the controversial law began in 2005 following an order from Premier **Wen Jiabao** ☒ and after two aborted attempts in the 1980s and 1990s.

The law is expected to become a "mini-constitution" for the energy sector and form an umbrella framework complementing laws covering electricity, coal, energy conservation and renewable energy.

Some 200 copies of the consultation draft, which has 15 chapters and 132 items, have been circulated to various government bodies, as well as state and private enterprises. Public consultation will start soon. Mr Ye said the law could be enacted by 2009 at the earliest, after the legislative process is completed at the National People's Congress.

"The new law will open the door for private firms to exert their right to a more level playing field," said the head of a privately owned fuel distributor in northeast China.

Professor Robert Blohm, a Beijing-based energy consultant, said the mainland did not need a new ministry of energy to pave the way for market liberalisation and competition.

"China should let the companies do their own planning and expand the State Electricity Regulatory Commission's jurisdiction to cover the natural gas segment," he said.

Source: South China Morning Post