



Regulatory Overview

Tunisia

This regulatory overview provides an outline of the legal framework applicable to renewable energy projects

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Renewable Energy Policy

In 2009 Tunisia launched a solar plan (Plan Solaire Tunisien) which covered the period 2010-2030 and aimed at an installed capacity of 4.7GW by 2030. This program is under revision. The updated National RE Plan will most probably aim for 40% installed capacity and 30% electricity production from RE by 2030.

Currently, Tunisia is working on a new RE Law that will regulate the development of RE projects, particularly small-scale projects and those dedicated to self-consumption as well as export.

Large-scale RE projects will continue to be governed by Loi 96-27 and Décret 96-1225 that set the legal framework for IPPs.

The reform process is already at an advanced stage. The draft of the new law is only pending Parliamentary approval.

The new law also provides for the identification of priority development zones for RE which will facilitate land access for investors.

Business models for renewable energy projects

Taking into consideration draft new RE Law, there will be essentially four different possibilities to structure RE projects:

- » large-scale projects, subject to concession (tender process)
- » small-scale projects, subject to authorization
- » self-production projects, subject to authorization and
- » export projects, subject to concession (direct award)

The capacity threshold to distinguish between large and small-scale projects has not yet been officially disclosed. The thresholds that have been discussed are 10W for PV and 30MW for wind.

STEG is the sole purchaser of the power produced under a Power Purchase Agreement (PPA). Therefore RE projects in Tunisia are not allowed to sell the electricity directly to large consumers.

Export projects may be an exception. Under the new law, RE export projects will be allowed to sell the electricity directly to neighbouring markets. Nevertheless, currently Tunisia does not yet have an interconnection with the EU.

Transmission regulation

Currently, grid access and transmission between the point of connection and delivery are only regulated in detail for the self-production regime under the Décret 2009-2773. For these projects, the power producer needs to cover the costs of evacuation infrastructure and also of grid upgrades (deep connection charge).

The new RE law will most probably extend this regime to all RE projects.

Investment Regulation

Tunisia is, together with Jordan, Morocco and Egypt, one of the countries in MENA that has made most efforts to attract foreign investment. However, the monopolistic character of the sector together with a high perceived difficulty of obtaining the required permits make it difficult for foreign investors to engage in RE investments.

Non-resident foreigners can freely purchase up to a maximum of 49.99% of a company. Any purchase above this ceiling is subject to the approval of the Investment Higher Board.

REGULATORY ASSESSMENT

RENEWABLE ENERGY REGULATION	
General IPP regulation	<p>A new law for RE is currently in progress.</p> <ul style="list-style-type: none"> Law 96-27 and Decret 96-1119 will continue to apply to large-scale IPPs projects, under a concession regime.
Land access	<p>Land ownership for foreign investors requires prior approval (except industrial or touristic zones).</p> <ul style="list-style-type: none"> RE priority development zones are to be developed under the new law. The access regime is still unclear.
Grid access	<p>Grid access is only regulated in detail for self-production (deep connection charge). Transmission is largely unregulated.</p>
Energy related permitting	<p>Under the new RE law there will be four types of permits: direct concession for export, concession for large projects, authorization for small scale and self-production.</p> <ul style="list-style-type: none">
Investment	<ul style="list-style-type: none"> Acquisition of more than 50% of the shares of a company is subject to prior approval.

BUSINESS MODELS FOR RENEWABLE ENERGY	
Support mechanisms	<ul style="list-style-type: none"> No FIT in Tunisia for large scale projects
IPP selling to single buyer	<ul style="list-style-type: none"> STEG is the single buyer of RE. A new law is currently in progress. It will include model PPAs for small-scale projects.
IPP selling to large consumers	<ul style="list-style-type: none"> Tunisia has a single buyer model. Therefore IPPs cannot sell to unrelated third parties.
Self-production	<p>Law 2009-7 provides a framework for RE for self-production. A consumer or group of consumers can produce electricity from RE for their own consumption. STEG is obliged to purchase excess production of up to 30% of the total amount generated p.a.; the <i>tariff generale basse tension</i> applies (75 millimes /kWh – 3.3 €ct/KWh)).</p> <ul style="list-style-type: none"> Currently, model PPAs are available for excess production under the self-production regime.

REGULATORY IMPROVEMENTS

General IPP regulation	<ul style="list-style-type: none"> • Under the regime of Law 96-27 no large-scale RE IPPs has been developed. Therefore, as part of the ongoing revision it would be advisable to create a new regime also for large-scale RE projects
Land access	<ul style="list-style-type: none"> • Establishing priority zones for the development of renewables can be a step forward in facilitating land access. For these areas foreign investment should be facilitated, similarly to the current regime for industrial and touristic zones. For the areas specified, the maps should identify the owner of the land in order to provide higher certainty for investors. Provided that the land was publicly owned a clear access regime should be established by Law.
Transmission regulation	<ul style="list-style-type: none"> • Transmission regulation regarding access to the grid should be developed in detail. • A shallow fee model, whereby power producers pay only for connection costs, should be favored over current deep connection charges, that require investors to pay for general grid upgrades that are very difficult to estimate. • Transmission tariffs should be regulated in detail.
Allow selling power directly to third parties	<ul style="list-style-type: none"> • Under the current regulatory reform RE Projects should be allowed to sell their power directly to large consumers, in order to allow for project developers to identify additional business cases.
Framework for Energy Investments	<ul style="list-style-type: none"> • Investment provisions particularly tailored to energy activities would significantly improve the investment framework. • The new Free Trade Agreements to be negotiated with the EU provide a good opportunity for this purpose. • Tunisia should consider entering into the Energy Charter Treaty
Guarantees of Origin	<ul style="list-style-type: none"> • Implementing a regime for tracing the renewable origin of electricity would be the first step towards a system of Guarantees of Origin. • Guarantees of Origin would allow end-consumers to engage in the promotion of renewables and could be used as tool to foster cross-border trade.

RENEWABLE ENERGY POLICY

RES TARGETS	<ul style="list-style-type: none"> • Tunisia launched a solar plan (Plan Solair Tunisien) in 2009. This program, which covered the period 2010-2030 aimed at an installed capacity of 4,7GW by 2030, and set as 2020 targets: 230MW CSP, 200MW PV and 460MW wind. The Solar Plan is currently under review. The updated National RE Plan will most probably aim for 40% installed capacity and 30% electricity production from RE by 2030.
MAIN LEGAL TEXTS	<ul style="list-style-type: none"> • Loi 2004-72 lays down a general framework for the promotion of RES and energy efficiency • A new RE Law is currently under development • IPP Law 96-27 (developed by Décret 96-1225) applicable to RES and conventional energy sources • Self-production regime Loi 2009-07 (developed by Décret 2009-277)
INSTITUTIONAL FRAMEWORK	<ul style="list-style-type: none"> • Ministry for Industry and Technology: coordinates the national energy policy. • Agence Nationale pour la Maitrise de l'Energie ("ANME"): aimed at optimizing energy efficiency, energy consumption and the use of renewable energy. • Société Tunisienne de l'Electricité et du Gaz ("STEG"): state-owned utility company and the sole purchaser, transporter and distributor of electricity in Tunisia. STEG ER is its renewable energy subsidiary. • Independent Commission for IPPs: assists the government in the process of IPP concessions. The IPP Commission consists of leading members of the Tunisian government. Preparatory work for the IPP Commission is done by the Interdepartmental Commission for IPPs which consists of the staff members of the involved ministries and STEG. • Tunisia is considering to establish an Energy Regulator

BUSINESS MODELS

RE IPPs (large scale)	<ul style="list-style-type: none"> • Law 96-27 governs large-scale IPPs, without distinction between conventional and renewable energy sources. • IPPs operate under a concession regime. The concession is granted by the Ministry of Industry through a tender process. The Independent Commission for IPPs is in charge of the concession procedure. Many aspects of the concession, e.g. the length of the concession, are not regulated in detail and are agreed on a case by case. basis • STEG is the sole purchaser of the power produced under a Power Purchase Agreement (“PPA”). The conditions of the PPA are not regulated therefore they will be the subject to the concession process and the final negotiations with the concessionaire.
RE IPPs (small scale)	<ul style="list-style-type: none"> • The new RE Law will subject small-scale projects (presumably up to 10MW PV and 30MW wind) to a two steps authorization process: a) initial authorization to initiate construction and; b) operating permit • STEG will be the single buyer of the power produced. A model PPA will be applicable to these projects.
EXPORTS	<ul style="list-style-type: none"> • Activities of export of electricity are currently unregulated. The new RE Law will provide a framework for RE export. • According to the current draft, the new RE Law will provide for a specific legal regime for export projects. These will be subject to a concession granted by the Minister in charge of energy under direct award (i.e. without a tender process)
SELF-PRODUCTION	<ul style="list-style-type: none"> • Self-production is currently regulated by Loi 2009-07 and Décret 2009-277 and will be further developed by the new RE Law. • A company or group of companies can generate power from RES for self-consumption upon the prior granting of an administrative authorization by the Ministry of Industry. Therefore power production is only an ancillary activity and the SPV must be totally owned by the power consumers. • STEG has the obligation to buy up to 30% of the annual production under a PPA. The PPA is a standardized model contract. The power will be purchased at the same price that it is sold to consumers. • The new Law will extend the self-production regime to municipalities and public companies

TRANSMISSION and ACCESS TO THE GRID

ACCESS and CONNECTION TO THE GRID	<ul style="list-style-type: none"> • Law 96-27 (large-scale IPP): The conditions for grid access are to be detailed in the concession contract following STEG's proposal. IPPs have to comply with technical standards and are subject to grid connection charges (not detailed).. • Self-production and new RE Law: The power producer has to cover the costs of the infrastructure necessary to connect the plant to the grid including measurement, monitoring, surveillance and security installations as well as the grid upgrades that may be necessary.
TRANSMISSION	<ul style="list-style-type: none"> • Law 96-27 (large scale IPP): transmission fees and transmission conditions are not specified • Self-production regime: STEG has the obligation to transport all the power produced from the point of generation to the point of consumption which amounts to priority dispatch and access. Transmission fees currently amount to 5 Millimes/kWh (0.23ct€/kWh).
BALANCING	<ul style="list-style-type: none"> • Balancing is performed by STEG but is currently unregulated
GRID UPGRADES	<ul style="list-style-type: none"> • IPP regime: Grid upgrades resulting from IPPs are currently unregulated and shall be governed by the concession agreement. • Self-production regime and new RE Law: The power producer needs to cover grid upgrades that are necessary to evacuate the power produced.
INTERNATIONAL INTERCONNECTIONS	<ul style="list-style-type: none"> • Tunisia has interconnections with Algeria and Libya and is planning another with Italy. • Currently STEG holds the monopoly of import and export activities and thus no capacity allocation rules are in place. The new RE Law will open up export to RE IPPs.
MERCHANT LINES	<ul style="list-style-type: none"> • The construction of merchant lines is currently not allowed in Tunisia. • All transport infrastructures belong to STEG, even if private operators bear the costs for grid infrastructure. • The new RE Law may allow direct lines for export; i.e. lines not connected to the Tunisian grid

FOREIGN INVESTMENT PROTECTION

LAND ACCESS	<ul style="list-style-type: none"> • Land ownership for foreign investors requires prior approval (except for industrial or touristic zones). • Identifying the owner of land located in non-urban areas can be difficult given that the coverage of the Land Registry is rather limited. • RE priority development zones are to be developed under the new law. The access regime is still unclear.
NATIONAL LAW	<ul style="list-style-type: none"> • The 1993 Investment Incentives Code applies to both national and foreign investors. It distinguishes between enterprises dedicated to export and to the domestic market, the former benefit from tax exemptions and incentives. • The Code guarantees freedom of investment and non-discriminatory treatment, although there are horizontal and sectorial exceptions to national treatment. • The acquisition by foreign investors of securities or shares in established companies exceeding 50% of the share capital is subject to prior approval of the High Investment Board. • Public authorities have announced a revision of the Investment Incentives Code and a review of the prior approval and incentives regime
BILATERAL INVESTMENT TREATIES	<ul style="list-style-type: none"> • Tunisia has signed 55 BITS of which 33 are in force. Most BITS provide for: expropriation standards, fair and equitable treatment, non-discrimination standard. Transfer of funds • Association Agreement with EU 1998 • Tunisia is a member of ICSID since 1972 • Tunisia is a member of WTO since 1995
NEW FREE TRADE AGREEMENT with EU	<ul style="list-style-type: none"> • Tunisia will soon start negotiating a new Free Trade Agreement with the EU. This is a good opportunity to provide a regime tailored to RE investment
ENERGY CHARTER TREATY	<ul style="list-style-type: none"> • Tunisia is an observer of the Energy Charter Treaty

REVIEWED REGULATION & STUDIES

- Draft - Bill concerning the production of electricity from renewable energy (2014)
- Loi 96-27, du 1er avril 1996, complétant le décret-loi 62-8 du 3 avril 1962 portant création et organisation de la STEG
- Décret 96-1125, du 20 Juin 1996, fixant les conditions et les modalités d'octroi de la concession de production d'électricité à des personnes privés.
- Loi 2009-7, du 9 février 2009, modifiant et complétant la loi n°2004-72 du 2 août 2004, relative à la maîtrise de l'énergie.
- Décret 2009-2773, du 28 septembre, fixant les conditions de transport d'électricité produite à partir des énergies renouvelables et de la vente de ses excédents à la société tunisienne de l'électricité et du gaz
- Loi n° 2005-82 du 15 août 2005 portant création d'un système de maîtrise de l'énergie.
- Décret n° 2005-2234 du 22 août 2005 fixant les taux et les montants des primes relatives aux actions concernées par le régime pour la maîtrise de l'énergie ainsi que les conditions et les modalités de leur octroi.
- Décret n° 2009-362 du 9 février, modifiant le décret n° 2005-2234 du 22 août 2005, fixant les taux et les montants des primes relatives aux actions concernées par le régime pour la maîtrise de l'énergie ainsi que les conditions et les modalités de leur octroi.
- Loi n°2004-72 du 2 août 2004, relative à la maîtrise de l'énergie.
- Décret n° 2004-795 du 22 mars 2004, portant modification du décret n° 2000-1124 du 22 mai 2000, fixant l'organisation administrative et financière et les modalités de fonctionnement de l'agence nationale des énergies renouvelables.
- Décret n° 2000-1124 du 22 mai 2000, fixant l'organisation administrative et financière et les modalités de fonctionnement de l'Agence Nationale pour la Maîtrise de l'Energie (ANME).
- Décret n° 2002-2200 du 7 octobre 2002, portant désignation de l'autorité de tutelle sur les entreprises et les établissements publics à caractère non administratif.

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