TERMS OF REFERENCE

Support for amending the regulatory and legislative framework for small-scale Renewables in the Commercial Sector in Armenia

1. BACKGROUND

Armenia has submitted three national communications, an Intended Nationally Determined Contribution (INDC) under the UN Framework Convention on Climate Change (UNFCCC) on 22 September 2015, and the first Biennial Update Report. Armenia’s INDC outlines mitigation activities for energy sector, including renewable energy and energy efficiency.\(^1\) On 9 February 2017, the National Assembly of the Republic of Armenia ratified the Paris Agreement.

The Republic of Armenia prioritises the development of renewable energy (RE) to follow the sustainable development agenda, reduce the dependence on the imported primary energy sources as well to meet its targets under the above-mentioned treaties. Armenia established quite favourable legal-regulatory framework for RE development in the country. The key national legislation and strategy documents on the development of the RE include:

- Law on Energy (2001),
- Law on Energy Saving and Renewable Energy\(^2\),
- National Program on Energy Saving and Renewable Energy\(^3\),
- Scaling up Renewable Energy Program (SREP)\(^4\).

In 2007, the Public Services Regulatory Commission (PSRC) of Armenia set renewable energy feed-in tariffs for small hydropower plants (SHPPs), wind, and biomass to stimulate private investment. Currently the feed-in tariff regime guarantees purchase of all the power generated by renewable energy plants for 20 years (15 years for SHPPs). More recently, Government took steps to streamline the process of developing RE projects, including relaxing tax obligations for some investments.

The European Bank for Reconstruction and Development (hereinafter the “EBRD” or the “Bank”) supports Armenia’s ambitions in developing the RE and EE sectors through investments, technical assistance and policy dialogue, as well as awareness-raising. A key instrument in this context is the Bank’s Green Economy Financing Facilities (“GEFF”) in partnership with the Green Climate Fund (“GCF”) and local financial institutions – banks, microfinance institutions and leasing companies.

In 2018-2019, as part of the GEFF Armenia focusing on small-scale RE in the commercial sector, the Bank has engaged a consultant to undertake a review of existing RE policies and regulations related to SREP (Scaling-up Renewable Energy Programme) and to identify the areas of potential legislative and regulatory improvement supporting the implementation of investments in small-scale RE. The Consultant has been engaged to perform the critical review of existing legislation, regulatory framework, programs, targets and commitments in RE in Armenia, as well as to identify potential policy support packages and to convene the relevant local stakeholders to ensure the policy improvement support and implementation.

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\(^1\) Intended Nationally Determined Contributions of the Republic of Armenia under the UN Framework Convention on Climate Change, 2015
\(^3\) National Program on Energy Saving and Renewable Energy of the Republic of Armenia, 2007
\(^4\) Scaling Up Renewable Energy Program for Armenia (SREP Armenia), 2014
As a result of the assignment and stakeholder consultation held on 9th of July 2019, the three areas were identified as priority areas for co-operation between the EBRD and the GoA.

The EBRD seeks to engage the Consultant to deliver specific recommendations and inputs to the relevant planning and regulatory documents for each of the three identified work packages.

2. Objectives

The overall objective of the current policy assignment is to improve the enabling legislative and regulatory framework for small-scale RE in the commercial sector, namely small-scale solar PVs; the specific priority areas for legislative/ regulatory improvement and for co-operation between the EBRD and the GoA are defined as follows:

- To support the GoA to develop and implement a medium-long term vision for distributed small-scale solar PV support mechanisms, in particular net metering/billing
- To support the GoA to design a suitable quality assurance mechanism for solar PV and solar water heaters in Armenia, taking into account costs / benefits of potential schemes
- To support the GoA to examine land-use requirements for small-scale solar PV and adjust in line with international best-practice (including new guidelines, permits, etc), and examine appropriate incentives for promoting projects on problematic areas.

Thorough review of existing regulations and best practice arrangements, cost/ benefit analysis of alternative options or scenarios and specific recommendations are to be provided for each work package.

3. Scope of Work

Inception phase:

- Preparatory desk research across the three work packages to determine a suitable work-plan
- Set-up a Steering Committee
- Initial SC meeting to agree on timing and delivery of key milestones / outputs.

Work package 1: Medium-long term vision for distributed small-scale solar PV support mechanisms, in particular net metering/billing

The GoA has set net-metering (NM) limits for individuals of 150kW and C&I users of 500kW, and the market has shown a great deal of interest, with significant growth (currently 1000 installations @ 13 MW up from 2 MW in 2017 - approx 250% YoY growth - with a trend of individual project sizes increasing). These allowances will be in place until 2022, at which point market liberalisation reforms are expected to come into effect, and the GoA needs to decide on 'new' thresholds for NM.
The objective of this work package is to help the GoA define its vision for NM in future, and provide relevant legal / regulatory / technical inputs to implement that vision.

Specifically, under this work package, the consultant will:

- Conduct a thorough review of the current NM regulations and an appraisal of the benefits and impacts to date (ex-post assessment)
- Conduct technical-analytical assessment of the NM connections based on the geographical, capacity, power output, legal status (resident-business-public sector), source of financing (own, loan, grant, leasing) and other relevant factors for the period of 2014-19 (annual dynamics);
- Assess the impact of regulation, market, cost of technology, availability of financing facilities on the scaling up of investments;
- Based on the above mentioned as well as using additional research, provide a forecast of new connections for coming 10 years using 3 scenarios: business as usual, more policy incentives and less policy incentives;
- Propose update of the regulations (additional incentives, less incentives or new regulation, such as virtual NM, 3rd party ownership, ESCO) based on the analytical work done. Separate scenario with impact assessment should be provided for post 2022 regime (power market liberalisation timeline);
- Presentation and discussion of the findings of the above-mentioned assessments as well as proposed policy actions to the EBRD and at the Stakeholder Consultation;
- Provide input to the 10 year planning of distribution grid being led by ENA in 2020 by provision of the relevant analytical data and assessments, forecasting related to the solar PV NM technology;
- Support the MTAI and PSRC by providing peer review (critical expert opinion) related to the NM regulations in the draft regulatory documents currently produced in Armenia (grid code, market rules, other) based on request;
- Summarize different options / scenarios and associated implications for presentation to SC (e.g. scale-up NM / maintain current approach / abandon) in order that the SC decides on the vision to be implemented;
- Prepare a section on Work package 1 for final report, including outputs from all tasks incorporated or attached to the report, all data collected and assessments done;
- Prepare draft pieces of primary and/or secondary regulation in English and the local language in line with the consultations and decisions taken by the SC.

**Work package 2: Quality assurance mechanism for solar PV and solar water heaters in Armenia**

As part of the consultations undertaken during the rapid assessment, there was a strong signal from the market that quality assurance mechanisms are needed for solar PV and solar water heater products being sold on the Armenian market. As the market grows and becomes more established, quality assurance will become increasingly important. However, there is a trade-off in terms of the costs of quality assurance - for example setting up a certification scheme to ensure that mandatory standards are being met requires accreditation systems, testing laboratories, etc. Although some of these elements already exist in Armenia (e.g. testing
laboratories), to put in place a functioning scheme will require investment, and in order to be sustainable, it needs to be incentivised with adequate cost-recovery.

The objective of this work package is to support the GoA to design a suitable quality assurance mechanism for Armenian solar PV and solar water heaters, taking into account costs / benefits of potential schemes.

Specifically, under this work package, the consultant will:

- Conduct a thorough review of existing QA mechanisms related to the solar PV and solar water heating technologies, evaluate the benefits and impacts to date (ex-post assessment). Identify the gaps and barriers in existing QA regulation hindering the small-scale solar PV and solar water heaters implementation;

- Provide best applicable international practice with comparative analysis (pros and cons), highlighting the quality/cost ratio for each of them;

- Prepare a concept document for introduction of QA system for solar PV and solar water heating technologies in Armenia. The proposed new QA measures shall be supported with the cost/ benefit analysis. Summarize different options / scenarios and associated implications for presentation to SC in a summary report in order that the SC decides on the option to be implemented;

- Prepare draft pieces of primary and/or secondary regulation in English and the local language described above, in line with the decision taken by the SC;

- Prepare a section on Work package 2 for the final report.

**Work package 3: Land-use requirements for small-scale solar PV**

During the rapid assessment an issue was identified in relation to land use purpose classification and the ambiguity of the current regulation and lack of enforcement. Particularly, it is required to obtain “energy purpose” classification for the land under the energy generation. Procedure to change the classification for example from agriculture to energy usage is complicated and time consuming. Solar PV project developer (investor) submits the evidence of classification to the PSRC to get license for electricity generation. However, in case of NM (capacities up to 500 KW) there is no licensing and there is no authority to check the classification of land at the site. Many solar PV projects under net metering are being implemented without a thorough check that land use classification allows for the production of energy (if it doesn’t, the project proponent needs to apply for the land type to be changed). There is the potential that many solar PV projects are not in concordance with the prevailing legislation. At the same time, it is a burden for proper investors following (respecting) the legislation. The consultant engaged by EBRD already proposed to authorities that the regulation shall be adjusted to waive land use classification changes for small-scale PV under virtual NM. Another suggestion was made to introduce incentives for developers to implement projects on more ‘difficult’ land, such as disused mining areas, landfill, etc.

The objective of this work package is to support the GoA to examine the current land-use requirements for small-scale solar PV and to adjust them in line with the international best-practice (including new guidelines, permits, etc), as well as to examine the appropriate incentives for promoting projects on problematic areas.
• Conduct a thorough review of existing regulation on changing the land use classification for implementation of small-scale solar PV, evaluate the benefits and impact (ex-post assessment);

• Identify the gaps/barriers between the existing regulation and the current market practice for small-scale solar PV implementation;

• Identify the necessary practical steps to address these gaps/barriers, analyse new potential regulation, including waiving the change of the land use for small scale solar PV or streamlining of the process, undertaking a benefit and impact assessment of potential options;

• Identify relevant governing regulatory documents, as well as other supporting policies/regulations;

• Summarize different options/scenarios and associated implications for presentation to SC in a summary report in order that the SC decides on the vision to be implemented;

• Prepare a section to the Final report on Work package 3;

• Prepare draft pieces of primary and/or secondary regulation in relation to Work package 3 in English and the local language in line with the consultations and decisions taken by the SC.

Final report

• Summarize all the outputs/outcomes under the three work packages in the final report.

4. DELIVERABLES

The Consultant will submit to the Bank the following outputs and reports:

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<tr>
<th>Deliverable</th>
<th>Timing</th>
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<tr>
<td>A brief plan with expected outcomes and timelines of project activities (including milestones) for the EBRD comments/review (spreadsheet with justification memo max 2 pages)</td>
<td>No later than 3 weeks after the Assignment commencement</td>
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<td>Work package 1:</td>
<td>No later than 7 weeks after the Assignment commencement</td>
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<tr>
<td>• As per Section 3, Scope of work, Work package 1 deliver the benefit/impact assessment of maintaining, scaling-up or abandoning the net-metering thresholds or introducing alternative mechanisms (for example virtual metering, etc) in the post 2022 regime, based on international best practice and based on the local context to date (among other, status and dynamics of NM connections in 2014-2019, the impacting factors and the 10-year forecast of NM connections as per three scenarios),</td>
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- Summary of different options / scenarios and associated implications for presentation first to EBRD for review and then to SC in order that the SC decides on the vision to be implemented

Work package 2:
- Benefit/impact assessment of existing local and international best practice Quality Assurance mechanisms for solar PV and solar water heating technologies, identifying the local gaps and barriers for small-scale solar PV and solar water heaters implementation;
- Summary of most suitable for the local context options and scenarios to address the existing gaps and barriers, including the quality/cost ratio, as well as associated implications, for presentation first to EBRD for review and then to SC in order that the SC decides on the vision to be implemented

Work package 3:
- Assessment of the existing regulation on changing the land use classification for implementation of small-scale solar PV, its benefit/impact to date (ex-post assessment), identification of gaps/barriers and practical steps to address the latter
- Summary of different options / scenarios to address these gaps/barriers, and associated implications for presentation first to EBRD for review and then to SC in order that the SC decides on the vision to be implemented

Organising a SC round-table and presenting for the SC of options/scenarios, associated implications and discussion of the findings from the above-mentioned assessments and proposed policy actions.

Support to the EBRD on engagement with the SC and on-boarding with the legislation/regulation amendment

Preparation of the draft pieces of primary and/or secondary regulation to address the identified barriers in the legislative and regulatory framework of the mentioned three areas in coordination with the EBRD Legal Transition team (LTT).

Providing direct support to the responsible Ministry during the consultation process at the Government with prior approval of the EBRD OL.

Organising the stakeholder consultation and presenting the draft pieces of primary and/or secondary regulation in English for the stakeholders’ review.
| Provision of the draft pieces of primary and/or secondary regulation in English and the local language. | No later than 32 weeks after the Assignment commencement |
| Preparation of the final report summarizing the project activities and output, as well as the potential next steps beyond the project. | No later than 37 weeks after the Assignment commencement |

All reports and presentations must be submitted in the English language. Any reports / briefings / presentations for local stakeholders must be translated into Armenian.

The Consultant will ensure that all reports and materials will acknowledge appropriate visibility for the EBRD and the donor.

5. **IMPLEMENTATION ARRANGEMENTS**

The contracting authority for the Assignment will be the EBRD. The assignment is expected to have duration of 10 months. The Consultant will report on all aspects of the Assignment to the EBRD’s Operation Leader and the team involved.

The Consultant is expected to work closely with the EBRD and consult and inform the EBRD prior to their meetings with government counterparts related to the Assignment. The Consultant will prepare regular email updates describing the status of the Assignment, any issues that have arisen and the actions undertaken by the Consultant to address these issues.

The Consultant will held bilateral meetings with the relevant local stakeholders to identify barriers, limitations and expectations.

The Consultant will be responsible for all costs related to the assignment, such as communication, travel, accommodation, and other relevant expenses, as well as for interpretation and translation costs.