

**International
Comparative
Legal Guides**



Practical cross-border insights into renewable energy law

**Renewable Energy
2023**

Third Edition

Contributing Editor:

Mhairi Main Garcia
Dentons & Co.

ICLG.com

Expert Analysis Chapter

1

Energy Security and Renewables
Mhairi Main Garcia, Dentons & Co.

Q&A Chapters

6

Austria
Schönherr Rechtsanwälte GmbH: Benjamin Schlatter, Christoph Cudlik, Sarah Wolf & Jutta Mayer

14

Canada
Lawson Lundell LLP: Lauren Cook, Lana Shipley & Ian Webb

22

Chile
Claro & Cía.: Nicolás Eyzaguirre Baeza & Joaquín Garnham Herrera

29

France
DS Avocats: Véronique Fröding & Stéphane Gasne

38

Germany
POSSER SPIETH WOLFERS & PARTNERS:
Dr. Wolf Friedrich Spieth, Niclas Hellermann,
Sebastian Lutz-Bachmann & Marcus Liedtke

46

Greece
Sardelas Petsa Law Firm: Panagiotis G. Sardelas & George E. Fragkos

54

Japan
Nishimura & Asahi: Sadayuki Matsudaira & Nobuaki Mori

61

Kazakhstan
Unicase: Saniya Perzadayeva & Kurmet Zhumagaliyev

69

Mexico
Galicia Abogados, S.C.: Carlos de Maria y Campos,
Francisco Fernández Cueto, Mariana Herrero & Cecilia Azar

77

Nigeria
Commercial & Energy Law Practice (CANDELP):
Israel Aye, Oluwaseun Adesanmi, Funmilayo Odude & Immaculate Odekina

86

Oman
Dentons & Co.: Mhairi Main Garcia & Yasser Taqi

94

Peru
QA Legal: María Teresa Quiñones, Lucía Olavarria,
Leslie Velásquez Gallo & Jose Alemán Boncún

102

Saudi Arabia
The Law Firm of Wael A. Alissa in association with
Dentons & Co.: Mhairi Main Garcia, Ziad Saad & Mohamad Al Rifai

109

Turkey
Balçioğlu Selçuk Ardiyok Keki Attorney Partnership:
Ceren Su, İlker Kıl, Onur Yorgun & Merve Çolak

118

United Arab Emirates
Dentons & Co.: Mhairi Main Garcia

129

United Kingdom
Bracewell (UK) LLP: Oliver Irwin, Robert Meade,
Nicholas Neuberger & Kirsty Delaney

138

USA
Pillsbury Winthrop Shaw Pittman LLP: Mona E. Dajani

143

Zimbabwe
Wintertons: Nikita Madya

Japan

Nishimura & Asahi



Sadayuki Matsudaira



Nobuaki Mori

1 Overview of the Renewable Energy Sector

1.1 What is the basis of renewable energy policy and regulation in your jurisdiction and is there a statutory definition of 'renewable energy', 'clean energy' or equivalent terminology?

The Japanese government encourages the development of renewable energy power plants through the use of a Feed-in Tariff (FIT) system (since 2012) and Feed-in Premium (FIP) system (since 2022) in pursuit of a carbon-neutral society.

Under the Renewable Energy Act (Act on Special Measures Concerning Promotion of Utilization of Electricity from Renewable Energy Sources), the definition of “renewable energy” includes sunlight, wind power, hydraulic power, geothermal power, biomass, and any other resources other than crude oil, petroleum gas, combustible natural gas, coal, and products manufactured therefrom, which may be designated by a cabinet order in the future.

Under the Act on Sophisticated Methods of Energy Supply Structures, renewable energy resources include sunlight, wind power, and other non-fossil energy sources that are designated as permanent energy sources by a cabinet order.

1.2 Describe the main participants in the renewable energy sector and the roles which they each perform.

Since the introduction of the FIT system under the Renewable Energy Act in 2012, a variety of newcomers have participated in the renewable energy sector, such as trading companies, financial institutions, real estate companies, venture companies specialising in renewable energy, and their affiliates. Moreover, a significant number of foreign investors and developers who have experience with developing renewable power projects in other countries have participated in the Japanese renewable power market. In addition, recently, traditional electricity utilities and their affiliates have also been participating enthusiastically in the renewable energy sector, especially since 2016, when the retail of electricity became fully deregulated, and the electricity retail market became competitive. Japanese banks are proactively providing finance to such projects, through both project finance schemes and corporate finance schemes.

1.3 Describe the government's role in the ownership and development of renewable energy and any policy commitments towards renewable energy, including applicable renewable energy targets.

In 2017, Japan ratified the Paris Agreement, the target of which is to reduce carbon emissions in comparison with 2013 by 26.3% by 2030, and by 80% by 2050. In addition, in October 2020, former Prime Minister Yoshihide Suga announced the new target of achieving carbon neutrality by 2050, and also announced in April 2021 a new, ambitious target to reduce carbon emissions by 46% by 2030 in comparison with 2013. The sixth Strategic Energy Plan of the Japanese government, which was made public in October 2021, set a plan to procure 36–38% of total electricity generation from renewable resources by 2030.

In addition to the FIT system under the Renewable Energy Act introduced in 2012, through which renewable power producers are entitled to sell electricity to general transmission and distribution utilities at a fixed price for a fixed term, there has been further legislation on the development of renewable energy. For example: the Act on Rationalizing Energy Use requires power generators to satisfy certain energy efficiency requirements; the Act on Sophisticated Methods of Energy Supply Structures requires all electricity retailers to procure at least 44% of their electricity from non-carbon power generation by 2030; and the Act on Promotion of Global Warming Countermeasures requires large-scale electricity consumers to report the volume of their carbon emissions to the government annually. The amendment of the Act on Promotion of Global Warming Countermeasures enables local governments to set “promotion areas” for which the administrative procedures for the introduction of renewable energy projects will become simpler.

2 Renewable Energy Market

2.1 Describe the market for renewable energy in your jurisdiction. What are the main types of renewable energy deployed and what are the trends in terms of technology preference and size of facility?

Since the introduction of the FIT system in 2012, solar photovoltaic (PV) projects (both utility scale and households) have developed significantly. Onshore wind projects and biomass projects have also developed. While offshore wind projects have not yet developed due to the absence of a legal framework, in 2018, the Japanese government enacted a new law (Act on Promoting the

Utilization of Sea Areas for the Development of Marine Renewable Energy Power Generation Facilities), under which selected developers are entitled to occupy a certain area of the ocean for 30 years. Thus, offshore wind projects are expected to be developed in the future. The public tender procedures to select a developer for each ocean area have started gradually.

2.2 What role does the energy transition have in the level of commitment to, and investment in, renewables? What are the main drivers for change?

Under the Paris Agreement, Japan announced its goal to reduce carbon emissions by 26.3% by 2030 in comparison with 2013, and by 80% by 2050. To achieve this, the Japanese government has introduced and/or enhanced FIT mechanisms, a new law to make offshore wind projects feasible, as well as regulations requiring electricity retail companies to procure electricity from non-carbon resources. In addition, the government has made efforts for the restarting and new development of nuclear power plants, as well as for the reduction of energy use on the consumer side. Recently, the Japanese government also started discussions on prohibiting old and inefficient coal power plants from operating by 2030. As such, “energy transition” is one of the largest drivers of change.

2.3 What role, if any, has civil society played in the promotion of renewable energy?

Except for certain industries (such as manufacturing industries that consume a significant amount of electricity) and local communities that suffer inconveniences arising from the development of renewable energy projects (such as changes in the landscape, noise from wind projects, etc.), civil society is generally supportive of the development of the renewable energy sector. The introduction of the FIT system in 2012 was carried out by the Japanese Democratic Party (a left-wing party) soon after the severe earthquake in the north-east area of Japan and the resulting Fukushima nuclear disaster. Even after the change of the cabinet to the Liberal Democratic Party (a right-wing party), the FIT system has continued and new policies to further develop the sector (such as the introduction of a new law to promote offshore wind projects) have been adopted.

2.4 What is the legal and regulatory framework for the generation, transmission and distribution of renewable energy?

The Electricity Business Act provides a regulatory framework for the generation, transmission, and distribution of electricity, including renewable energy electricity. A renewable power producer, whose total generation capacity exceeds 10MW, is required to submit a notification as a power generator to the Ministry of Economy, Industry and Trade (METI), and to comply with certain rules to ensure grid stability. The transmission and distribution of renewable power projects are generally carried out by 10 large transmission and distribution utilities. These utilities are required to provide grid access to renewable power producers, provided that they satisfy certain requirements to maintain grid stability. Recently, local grid providers have been emerging, and they provide grid access to renewable power producers by obtaining a transmission licence under the Act.

2.5 What are the main challenges that limit investment in, and development of, renewable energy projects?

A number of challenges exist. The first challenge is frequent policy changes and the difficulty of predicting future policy. One example of this is the introduction of a deadline for the commercial operation date (COD) of certain types of renewable power projects (including utility-scale solar PV projects), which already had obtained FIT certification from METI without any requirements regarding a deadline on the COD. The relevant project developers faced a situation where they would lose FIT certification (including the right to sell electricity with the high FIT purchase price) unless they reached commercial operation by a certain deadline. The second challenge is grid connection issues. In particular, large-scale wind power projects have difficulties with grid connection due to scarce grid capacity in rural areas in Japan. In addition, the amendment of the Renewable Energy Act requires, in relation to PV power plants, that demolition costs for the plants be reserved during the purchase period. The enhanced curtailment risk in certain areas of Japan is a further challenge.

2.6 How are large utility-scale renewable power projects typically tendered?

As of 2022, a tender process has become applicable to solar PV projects (250kW to below 1MW) for the FIT system, onshore wind power projects (50kW or larger; replacement projects are excluded) for the FIT system, solar PV projects (1MW or larger) for the FIP system, certain biomass power projects for the FIP system, and offshore wind projects. For solar PV projects, onshore wind power projects, and certain biomass power projects, the tender process is generally held once or twice per year. The government decides the maximum capacity to be certified for each category and the maximum purchase price. The applicants who propose lower purchase prices are selected until the total generation capacity of the selected applicants reaches the maximum capacity in the tender process. For offshore wind projects, the tender process is held for a project site in a certain area of the ocean designated by the government, and while the purchase price proposed by the applicants is an important factor in the selection process, other factors, such as the experience of the developer, the development plan, and contributions to the local community, are also evaluated in the process. The conditions for the upcoming tender are under consideration by the government based on the results of past tenders.

2.7 To what extent is your jurisdiction's energy demand met through domestic renewable power generation?

In 2019, renewable energy only accounted for approximately 18.0% of the total electricity demand in Japan, with approximately 7.8% from hydro projects, 6.7% from solar PV, 2.6% from biomass projects, and 1.0% from other renewable projects. In the same year, approximately 37.0% of energy was from gas thermal power, 32.0% from coal thermal power, 7.0% from oil and other thermal power, and 6.0% from nuclear power.

3 Sale of Renewable Energy and Financial Incentives

3.1 What is the legal and regulatory framework for the sale of utility-scale renewable power?

Under the FIT system, renewable power producers are entitled to sell electricity generated from renewable power generators

(certified by METI) to general transmission and distribution utilities at a fixed price for a fixed term (generally 20 years).

In April 2022, the amendment of the Renewable Energy Act became effective, and the FIP system was introduced. In general, the FIP system applies to 50kW or larger renewable energy projects. At this stage, the FIT system still applies to a certain range of renewable energy projects. However, the FIT system will gradually be replaced by the FIP system. Under the FIP system, power producers will be entitled to receive a certain premium amount in addition to the wholesale price or the agreed purchase price under the power purchase agreement (PPA) for a fixed term (generally 20 years). The premium is calculated for each month by multiplying (i) the unit price (as explained below), by (ii) the amount of renewable electricity supplied (with certain adjustments). The unit price is the difference between a certain standard price per category (which is determined based on costs plus reasonable margin concept by a METI committee every fiscal year) and a certain reference price (which is calculated every month based on the Japan Electric Power Exchange (JEPX) wholesale price, etc.). If the unit price is a negative amount, it is deemed to be zero.

3.2 Are there financial or regulatory incentives available to promote investment in/sale of utility-scale renewable power?

As mentioned in question 3.1 above, under the FIT system, renewable power producers are entitled to sell the electricity generated from certified renewable power projects at a fixed price for a fixed period; this is the largest financial incentive available to promote investment. As mentioned above, from April 2022, the FIP system applies to certain types of renewable power. Under the FIP system, renewable power producers are entitled to receive premiums as financial incentives.

3.3 What are the main sources of financing for the development of utility-scale renewable power projects?

Japanese banks (particularly the four major Japanese banks, MUFG, SMBC, Mizuho and DBJ) are the main sources of project financing for utility-scale renewable power projects. Other financial institutions such as trust banks, local banks, lease companies, and securities companies are also sources of financing for utility-scale renewable projects. Foreign financial institutions also provide financing for such projects, particularly when the sponsors are foreign companies.

3.4 What is the legal and regulatory framework applicable to distributed/C&I renewable energy?

Distributed renewable power projects may also be entitled to enjoy the benefits under the FIT or FIP systems. An electricity retail licence is not required if the power generator supplies electricity within a certain site or neighbouring sites without using the transmission lines.

3.5 Are there financial or regulatory incentives available to promote investment in distributed/C&I renewable energy facilities?

In addition to the FIT or FIP systems, which facilitate the development of renewable power projects, the wheeling service fee

mechanism also provides incentives to promote investment in distributed renewable energy facilities. If a power project is developed on a particular site, and the generated electricity is supplied to a consumer on the same site or a neighbouring site without using the transmission lines operated by transmission utilities, it will not be subject to the wheeling service fee. Furthermore, there have been discussions regarding introducing a mechanism under which if the generated electricity is supplied to a consumer within a local distribution line and without using a high-voltage transmission line, a lower wheeling service fee will apply.

3.6 What are the main sources of financing for the development of distributed/C&I renewable energy facilities?

Equity investments by developers as well as financing by banks (including local banks) and other financial institutions are the main sources of financing.

3.7 What is the legal and regulatory framework applicable to the development of green hydrogen projects?

Currently, there is no single integrated regulation on hydrogen business. The High Pressure Gas Safety Act, Gas Business Act, and/or Electricity Business Act can apply, depending on the circumstances. For example, hydrogen supply through pipelines and storage and gasification of liquidated hydrogen at a terminal linked to pipelines are subject to the Gas Business Act, which generally requires the odorisation of gas (including hydrogen). The use of hydrogen for generating electricity in a power plant is subject to the Electricity Business Act. In other cases, hydrogen generation, storage, transportation, supply and use are subject to the High Pressure Gas Safety Act. The government is considering reforming the laws to clarify and simplify the regulations applicable to hydrogen business.

3.8 Are there financial or regulatory incentives available to promote investment in green hydrogen projects?

The Japanese government is providing subsidies to hydrogen projects through the Green Innovation Fund of New Energy and Industrial Technology Development Organization (NEDO); such projects include a feasibility study project on the liquid hydrogen importation from Australia and storage thereof, a feasibility study project on hydrogen separation from MCH by using existing oil refinery facilities, a large-scale (40MW) water electrolysis project for renewable power generation, a PEM type (16MW) water electrolysis project, electricity generation projects using hydrogen, and the development of hydrogen use (instead of coke) in iron manufacturing.

3.9 What are the main sources of financing for the development of green hydrogen projects in your jurisdiction?

At this stage, hydrogen projects have not been bankable on a non-recourse basis. Therefore, governmental subsidies, equity investments and corporate financing are the main sources of financing.

3.10 What is the legal and regulatory framework that applies for clean energy certificates/environmental attributes from renewable energy projects?

Non-fossil fuel value certificates can be issued for the generation of electricity from renewable power projects. Under the FIT system, the Organization for Cross-regional Coordination of Transmission Operators, Japan (OCCTO), which provides funds for general transmission and distribution utilities to pay the purchase price to renewable power generators, issues and sells the certificates to the market through the JEPX. Renewable power producers that do not enjoy benefits under the FIT system can issue the certificates by obtaining confirmation of the organisation designated by the Japanese government. These certificates can be traded on the market (through the JEPX) and individually (outside the market).

3.11 Are there financial or regulatory incentives or mechanisms in place to promote the purchase of renewable energy by the private sector?

Under the Act on Sophisticated Methods of Energy Supply Structures, electricity retail companies are obligated to procure at least 44% of their total procurement from non-fossil fuel sources by 2030, which means that it is necessary for these companies to procure non-fossil fuel value certificates, from the market or individually, in an amount corresponding to 44% of their total electricity procurement. Under the Act on Promotion of Global Warming Countermeasures, certain large electricity consumers are obligated to report their volume of carbon emissions annually to the government, and this information subsequently becomes publicly available. In order to enhance their reputation, large consumers are incentivised to procure electricity with a lower amount of carbon emissions.

4 Consents and Permits

4.1 What are the primary consents and permits required to construct, commission and operate utility-scale renewable energy facilities?

Depending on the area where the facility will be developed, the permissions of the local governor and/or other governmental authorities will be necessary under the Agricultural Act, Forest Act, Natural Parks Act, Landscape Act, City Planning Act, etc. (as applicable). In addition, an environmental impact assessment is required for certain large-scale hydro, wind, biomass and solar projects. Smaller projects might also be subject to an environmental impact assessment under local laws. Recently, more local rules have been enacted due to criticisms regarding the disordered development of solar projects, etc.

4.2 What are the primary consents and permits required to construct, commission and operate distributed/C&I renewable energy facilities?

Depending on the area where the facility will be developed, the permission of the local governor will be necessary under the Agricultural Act, Forest Act, etc. Recently, more local rules have been enacted due to criticism regarding solar projects, etc.

4.3 What are the requirements for renewable energy facilities to be connected to and access the transmission network(s)?

The payment of a certain portion of the construction fees has recently become a necessary requirement for grid connection.

In addition, certain requirements for maintaining grid stability must be satisfied, including a project entity's consent to curtailment without compensation. The maximum hours of curtailment without compensation differ depending on the area and the timing of the development.

4.4 What are the requirements for renewable energy facilities to be connected to and access the distribution network(s)?

The requirements for distribution networks are the same as those for transmission networks. Please refer to our response to question 4.3 above.

4.5 Are microgrids able to operate? If so, what is the legislative basis and are there any financial or regulatory incentives available to promote investment in microgrids?

The Japanese government enacted an amendment to the Electricity Business Act in 2020. According to this amendment, distribution licences are now separate from transmission licences, and by obtaining a distribution licence from METI, the performance of microgrid business through distribution lines owned or operated by distribution licence holders has become possible.

4.6 Are there health, safety and environment laws/regulations which should be considered in relation to specific types of renewable energy or which may limit the deployment of specific types of renewable energy?

There are multiple laws that should be considered in the development of renewable energy projects. Those laws include the following:

- The Forest Act, which regulates development work in conservation forest areas and forest areas included in the local forest plan. The Forest Act requires developers to obtain the prior approval of the prefecture governor in order to conduct any development work in such areas.
- The Law on Prevention of Disasters Caused by Collapse of Steep Slopes, which regulates development work in designated steep slope areas.
- The Natural Parks Act, which regulates development work in national park areas. The prior approval of or a filing with the Ministry of Environment or the prefecture governor is required in order to carry out development work in such areas, depending on whether the area is located in a national park.
- The Environmental Impact Assessment Act, which requires certain industry-scale renewable projects to conduct an environmental impact assessment prior to starting development.

5 Storage

5.1 What is the legal and regulatory framework which applies to energy storage and specifically the storage of renewable energy?

No clear legal framework applies to energy storage. However, recently, based on a request from general transmission and distribution utilities, and in order to facilitate grid connections, some utility-scale renewable power projects have introduced behind-the-meter storage facilities. The recent revision of the Electricity Business Act, which will be effective from April 1, 2023, covers discharge from large batteries as electricity generation.

5.2 Are there any financial or regulatory incentives available to promote the storage of renewable energy?

There are subsidy programmes for storage facilities, which are provided by the central government and certain local governments.

6 Foreign Investment and International Obligations

6.1 Are there any special requirements or limitations on foreign investors investing in renewable energy projects?

Under the inbound investment regulation, filing a prior notification with the Ministry of Finance and METI regarding an inbound investment in a renewable energy project is required. The waiting period for clearance is typically 30 days.

A foreign entity cannot be an applicant for a bid process for offshore wind projects. Therefore, foreign investors must set up a subsidiary in Japan or otherwise invest in a Japanese entity (including a special purpose company for the project) in order to participate in offshore wind projects in Japan.

6.2 Are there any currency exchange restrictions or restrictions on the transfer of funds derived from investment in renewable energy projects?

No such restrictions exist. Please note that for certain renewable power projects, such as solar projects, project companies are required to pool a certain percentage of the sales amount for decommissioning, and the companies are not permitted to distribute that amount.

6.3 Are there any employment limitations or requirements which may impact on foreign investment in renewable energy projects?

Generally, no. For offshore wind projects, however, the number of local employees who would be employed by a project is one of the items to be evaluated in the bid process.

6.4 Are there any limitations or requirements related to equipment and materials which may impact on foreign investment in renewable energy projects?

Generally, no. For offshore wind projects, however, the extent to which a project will contribute to the creation of business and employment in Japan is one of the items to be evaluated in the bid process.

7 Competition and Antitrust

7.1 Which governmental authority or regulator is responsible for the regulation of competition and antitrust in the renewable energy sector?

In addition to the Fair Trade Commission, which is the regulatory body on general antitrust matters, METI and its Agency for Natural Resources and Energy, as well as the Electricity and Gas Market Surveillance Commission, are responsible for the regulation of competition and antitrust in the renewable energy sector.

7.2 What power or authority does the relevant governmental authority or regulator have to prohibit or take action in relation to anti-competitive practices?

The relevant governmental authorities have the authority to issue a correction order or to impose an administrative fine.

7.3 What are the key criteria applied by the relevant governmental authority or regulator to determine whether a practice is anti-competitive?

Grid connection is a typical anti-competitive issue for renewable projects. If a general transmission and distribution utility prioritises a renewable power producer in its group over a renewable power producer outside its group without any justifiable reason regarding grid connection, the Fair Trade Commission and METI will decide that such utility has violated antitrust regulations and the Electricity Business Act, and will issue a correction order or other administrative order.

8 Dispute Resolution

8.1 Provide a short summary of the dispute resolution framework (statutory or contractual) that typically applies in the renewable energy sector, including procedures applying in the context of disputes between any applicable government authority/regulator and the private sector.

Typically, the first instance of dispute resolution in the renewable energy sector is a trial in a certain district court (usually, the Tokyo District Court), as in other sectors.

For certain disputes related to grid connection, arbitration and mediation led by the Electricity and Gas Market Surveillance Commission can be used under the Electricity Business Act.

For foreign investors, it may be possible to use international arbitration under the Energy Charter Treaty to protect their investment in Japan, by claiming a breach of the Treaty by the Japanese government.

8.2 Are alternative dispute resolution or tiered dispute resolution clauses common in the renewable energy sector?

Under many agreements for renewable power projects, the first instance of dispute resolution is a trial in a certain district court, as in other sectors. In relation to agreements with international companies, such as biofuel supply agreements for biomass projects or turbine supply agreements for wind power projects, the dispute resolution mechanism is sometimes arbitration.

8.3 What interim or emergency relief can the courts grant?

A preliminary injunction from a court might be available if the court determines that damages (which cannot be recovered easily) will be incurred by a plaintiff without a preliminary injunction.

8.4 Is your jurisdiction a party to and has it ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States and/or any significant regional treaty for the recognition and enforcement of judgments and/or arbitral awards?

Yes, Japan is a party to and has ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

8.5 Are there any specific difficulties (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against government authorities or the state?

Japanese courts tend to respect the broad discretionary decisions of government authorities, particularly in regard to economic rights. Plaintiffs must provide clear arguments that their rights have been infringed by the government's actions and that the government's actions have no reasonable grounds.

8.6 Are there examples where foreign investors in the renewable energy sector have successfully obtained domestic judgments or arbitral awards seated in your jurisdiction against government authorities or the state?

There have not yet been any examples of this. Multiple foreign investors have made claims against the government regarding the reduction of the applicable purchase price for certain solar projects that have not started commercial operation by a certain deadline designated by METI, in the case where such deadline did not exist as at the issuance of METI's certification. However, there have been no court decisions or arbitral awards in which such investors successfully obtained a decision favourable to them.

9 Updates and Recent Developments

9.1 Please provide a summary of any recent cases, new legislation and regulations, policy announcements, trends and developments in renewables in your jurisdiction.

In 2020, the Japanese government enacted the amendment of the Renewable Energy Act (which became effective from April 1, 2022), through which the FIP system (instead of the FIT system), is introduced for certain types of renewable power projects (typically large-scale solar and wind projects). Under the FIP system, renewable power projects are entitled to receive the premium amount (as explained in question 3.1) plus the wholesale market price, which is volatile, or a wholesale price agreed in a bilateral wholesale PPA. The FIP system aims to integrate these renewable energy projects into the general electricity market. The introduction of the FIP system and the decrease of the purchase price under the FIP system and its mechanisms has led to a greater number of corporate PPA projects, by which project developers may be able to expect a fixed amount of revenue from high-credit consumers, which is preferable to project finance lenders.

In 2018, the Japanese government enacted an act that provides a legal framework for a bid process by which selected developers of offshore wind projects can exclusively use certain areas of the ocean for a period of 30 years. Through this law, the government expects to facilitate the development of offshore wind projects in Japan, and as of July 2022, the bid winners were selected for four ocean areas. Currently, a new evaluation policy for the bid process is being reviewed based on the results of past tenders. The main topics under discussion are (i) further clarification of evaluation standards, (ii) the evaluation of early commercial operation, and (iii) the limitation of successful bids in the case where the tender processes for several ocean areas are ongoing at the same time. Multiple additional bid processes that are subject to the new evaluation policy will be held in the coming years.

For the purpose of securing investment in decarbonised power plants and ensuring that their capacities are available over the long term, the government is discussing the introduction of a long-term decarbonised power supply auction in 2023 as a type of special auction in the capacity market.



Sadayuki Matsudaira has a wealth of experience in supporting international clients in projects, transactions, and businesses in the energy sector. Sadayuki advises his clients on the best solutions for achieving their business goals based on his deep understanding of the relevant laws and regulations and practices in the full energy supply chain. He also has expertise in carbon-neutral projects and businesses, such as renewable power projects and hydrogen projects, as well as pioneering businesses involved in recent developments in the electricity market and the regulations thereon. Sadayuki serves as a member of an industrial safety rules committee and a hydrogen safety strategy committee, both of which were established by the Ministry of Economy, Trade and Industry of Japan, and also is a member of an electricity capacity market committee, which is part of the Organization for Cross-regional Coordination of Transmission Operators, Japan (OCCTO).

Nishimura & Asahi

Otemon Tower, 1-1-2 Otemachi
Chiyoda-ku
Tokyo 100-8124
Japan

Tel: +81 3 6250 6256

Email: s.matsudaira@nishimura.com

URL: www.nishimura.com



Nobuaki Mori has strong expertise in project finance, particularly in the financing of renewable energy projects and PFI/PPP projects. He has a broad understanding of Japanese renewable energy-related legislation. Nobuaki constantly strives to meet his clients' needs and expectations by drawing upon the practical expertise and know-how he has acquired through his exposure to a wide array of legal transactions.

Nishimura & Asahi

Otemon Tower, 1-1-2 Otemachi
Chiyoda-ku
Tokyo 100-8124
Japan

Tel: +81 3 6250 6556

Email: n.mori@nishimura.com

URL: www.nishimura.com

Leading You Forward

We are Japan's largest full-service international law firm, with more than 700 lawyers around the world. The diversity and depth of expertise offered by our world-class attorneys is difficult to match. By thoroughly understanding our clients' business, we have been providing them with true value since 1966. We apply our exceptional knowledge and expertise to offer strategic, comprehensive solutions that advance their business goals. With a pioneering spirit underpinned by professionalism and intelligence, our promise to our clients – leading you forward – lies at the core of our service delivery. We aim to make a significant contribution to the growth of our clients and to our wider community.

Truly Global Reach

We have an ever-expanding network of 18 offices across Asia, Europe, North America and beyond, allowing us to provide multi-lingual local expertise on an international scale. We have offices in Bangkok, Beijing, Dubai, Düsseldorf, Frankfurt, Hanoi, Ho Chi Minh City, Hong Kong,¹ Jakarta,² New York, Shanghai, Singapore, Taipei and Yangon, and domestic offices in Fukuoka, Nagoya, Osaka and Tokyo. Through our global network, we offer a full suite of cross-border legal services.

We are also the only Japanese member firm of Lex Mundi, the world's leading network of independent law firms.

¹ Affiliate Office

² Associate Office

Main Areas of Practice

M&A, Corporate, Finance, Real Estate, Restructuring & Insolvency, Dispute Resolution, Corporate Crisis Management, Competition & Antitrust Law, Intellectual Property, Labour, Consumer Law, International Trade, Public Interest Activities, Natural Resources & Energy, TMT, Life Sciences & Healthcare, Digital Transformation & Innovation and Tax.

www.nishimura.com

NISHIMURA & ASAHI

ICLG.com



Current titles in the ICLG series

Alternative Investment Funds	Franchise
Anti-Money Laundering	Gambling
Aviation Finance & Leasing	Insurance & Reinsurance
Aviation Law	International Arbitration
Business Crime	Investor-State Arbitration
Cartels & Leniency	Lending & Secured Finance
Class & Group Actions	Litigation & Dispute Resolution
Competition Litigation	Merger Control
Construction & Engineering Law	Mergers & Acquisitions
Consumer Protection	Mining Law
Copyright	Oil & Gas Regulation
Corporate Governance	Patents
Corporate Immigration	Pharmaceutical Advertising
Corporate Investigations	Private Client
Corporate Tax	Private Equity
Cybersecurity	Product Liability
Data Protection	Project Finance
Derivatives	Public Investment Funds
Designs	Public Procurement
Digital Business	Real Estate
Digital Health	Renewable Energy
Drug & Medical Device Litigation	Restructuring & Insolvency
Employment & Labour Law	Sanctions
Enforcement of Foreign Judgments	Securitisation
Environment & Climate Change Law	Shipping Law
Environmental, Social & Governance Law	Technology Sourcing
Family Law	Telecoms, Media & Internet
Fintech	Trade Marks
Foreign Direct Investment Regimes	Vertical Agreements and Dominant Firms