



Ukraine Renewable Energy  
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# The Current and Expected Legislation Supporting Solar Industry in Ukraine: Practical Legal Aspects for Developers and Investors

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- **Procedure and main requirements/conditions for getting “green” tariff**
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# DANEVYCH law firm

- ⇒ Strong international focus**
- ⇒ Actively involved into green energy legal environment for last 4 years**
- ⇒ IFC expert on “green” tariff mapping in Ukraine**
- ⇒ Legal expert and partner of Ukrainian Bioenergy Association**
- ⇒ We are proud to provide Clients with services which make the environment better and the economy of Ukraine stronger**

# Incentives for development of solar energy projects

## ☞ Tax incentives under the Tax Code

- ☞ exemption from import VAT and customs duties
- ☞ decrease of land tax for renewable energy power plants by 75%
- ☞ limits for rental payments for lands lease from state and municipal authorities by 3% of appraisal value
- ☞ exemption from CPT of
  - ☞ profit from main activity of companies in the energy sphere which produces electricity only from renewable till 2021
- ☞ **necessity to conduct energy saving examination!?**

## ☞ Possibility to use JI under Kyoto Protocol for solar energy projects

## ☞ Feed-in tariff scheme or “green” tariff (GT)



# Current statistics

- In the middle of 2009 the core legislation on the current feed-in tariff scheme (GT) was enacted
  
- As of November 2012 GT is
  - established for 27 companies operating solar power plants (SPPs) out of 67 licensees awarded with fixed (guaranteed) GT
  - they operate 30 SPPs

# Minimal fixed GT rates (current law)

Type of energy	Power station capacity and other factors influencing the rate of GT	Rate of the tariff (€ / kW)
Wind	less 600 kW	0,0646
	600-2000 kW	0,0754
	more 2000 kW	0,1131
Solar energy	Power plants on ground surface	0,4653
	Power plants on the roofs of buildings with power capacity exceeding 100 kW	0,4459
	Power plants on the roofs of buildings with power capacity of up to 100 kW and facades of buildings regardless power capacity	0,4265
Biomass	Should be at least partially of plant origin to be eligible	0,1239
Small hydropower plants	not more than 10000 kW	0,0775

# Change/Decrease of GT in the future (current law)

- GT is established until 2030 (grounds for termination are also established by a Decree of NERC)
  
- Decrease of the current GT rates for SPPs commissioned (significantly upgraded) after:
  - 2014 – by 10%
  - 2019 – by 20%
  - 2024 – by 30%



# Expected change in minimal fixed GT rate for solar\*

Categories eligible to GT	Coefficient of GT for power plants commissioned, Rate of the tariff (€/ kW)				
	till 31.03.2013 inclusively	from 01.04.2013 till 31.12.2014	from 01.01.2015 till 31.12.2019	from 01.01.2020 till 31.12.2024	from 01.01.2025 till 31.12.2029
Electricity of SPPs on lands	0,46526	0,33926	0,30533	0,2714	0,23748
Electricity of SPPs on the roofs of buildings or on facades of constructions with power capacity <u>more than 100 kW</u>	0,44588	0,34895	0,314053	0,27916	0,24426
Electricity of SPPs installed on the roofs of buildings or on facades of constructions with power capacity <u>not more than 100 kW</u>	0,42649	0,35864	0,322777	0,28691	0,25105
Electricity of SPPs on the roofs of buildings or on facades of private households with power capacity <u>not more than 10 kW</u>	-	0,35864	0,322777	0,28691	0,25105

\*Law No. 5485-VI of 20.11.2012. Published on 1.12.2012.

Expected to take effect on 01.04.2012



# Expected special rules for households

**Solar power plants with power capacity not more than 10 kW**

☞ **Not subject to electricity licensing**

☞ **The procedure of selling and counting such electricity and settlements for it shall be approved by NERC**

☞ **Electricity distributors at regulated tariffs are obliged to purchase electricity in the excess of monthly consumption of electricity.**

☞ **What is “monthly consumption”?**

☞ **Local content requirement does not apply**

☞ **GT applies since July 1, 2013 or January 1, 2014?!**



# Guarantee of GT application in the future

- Its rates are not tied to retail rates or average rates for producers of electricity
- They are fixed as of January 1, 2009 in EUR and linked to EUR/UAH exchange rate (if more than 10.86 )
- The State guarantees GT application to commissioned SPPs and purchase of all electricity produced by them
- **N.B!** Under expected changes guarantee will also apply to SPP lines and launching complexes



# Purchase of electricity at GT rates

- Wholesale Electricity Market of Ukraine (WEM) represented by State Enterprise “Energorynok”
  - State guarantee of purchase of all electricity produced by SPPs under GT
  
- Direct sales of electricity to consumers
  - Legislative limitations
  - Absence of economic and administrative incentives



# Purchase of electricity at GT rates

**Draft Law No. 10571 adopted in the first hearing by the parliament on 20.11.2012- transition to bilateral contracts and balancing market**

**⇒ All sales of “green” electricity at bilateral contracts, “day ahead” or balancing markets at market prices**

**⇒ Only “day ahead” market shall purchase electricity at GT by its operator which shall be compensated by a special fund**



# Purchase of electricity at GT rates

Draft Law No. 10571

- Special requirements for coverage non-balance
- Special fund will secure the purchase of all GT electricity and reimburse expenses related to non-balance
- Terms of payments will be determined by special rules
- Transition period may last up to 5 years (deadline 1.01.2016)



# Ukrainian LCR (currently)

➤ The share of the Ukrainian LC (fixed assets, materials, works, services) in the total value of SPP construction depending on the year of its commissioning shall be at least

➤ since 2012 – 15 %

➤ since 2013 – 30%

➤ since 2014 – 50 %

➤ Additionally for solar power plants, value of materials and raw materials in production of solar modules shall be at least

➤ for plants commissioned in 2013 – 30%

➤ for plants commissioned in 2014 – 50 %



# Ukrainian LCR (currently)

⇒ Cabinet of ministers approved on 24.09.2012 «procedure»  
on issuance of certificates of origin

⇒ Procedure entered into force on 28.09.2012

⇒ Procedure on calculation adopted by NERC on 15.06.2012

⇒ Procedure entered into force on 19.10.2012



# Ukrainian LCR (currently)

«Procedure» on issuance of certificate of origin

➤ Chamber of commerce of Ukraine or regional chambers issue the certificates (procedure is not adopted!)

➤ Calculation is carried out by expert organizations published Ministry of Regional Development, Construction and Utilities of Ukraine (not really correct wording)





# Ukrainian LCR (currently)

## Procedure on LC calculation (content)

➤ Formula for calculation

➤ Documents confirming value of materials, services, works and fixed assets

➤ Calculation after commissioning and respective application

➤ No calculation of LCR for modules (currently elaborated)!

➤ Conclusion of the expert organization and list of considered documents– confirmation of LC



# Ukrainian LCR (expected)

- The share of the Ukrainian LC (fixed assets, materials, works, services) in the total value of SPP construction depending on the year of its commissioning shall be at least
  - since April 1, 2013 till July 1, 2013 – 15% (old calculation approach)
  - since July 1, 2013 – 30%
  - since 2015 – 50 %
  
- NERC will itself determine Ukrainian LC since July 1, 2013!!!



# Ukrainian LCR (expected)

## The fixed shares since July 1, 2012

Elements of local content	Operations should be taking in Ukraine	Fixed share, %
Polysilicon	manufacturing	32
Monocrystals, multicrystals and pseudo-mono-crystals	manufacturing	13
Cells from monocrystals or multicrystals	manufacturing	7
Photoelectric elements	manufacturing	20
Photoelectric modules	assembling	23
Construction works	manufacturing	5
Total		100



# Ukrainian LCR (expected)

## The fixed shares- possible interpretations

☞ fixed shares (maximal shares) within respective 30% or 50% of the component which may be allocated for different types of elements of Ukrainian origin, for instance, value of SPP is EUR 1 000 000, 30% LCR – EUR 300 000, and the maximal value of elements of Ukrainian origin which could attributed for compliance with the LCR

- ☞ polysilicon – EUR 96 000
- ☞ monocrystals– EUR 32 000
- ☞ cells – EUR 21 000
- ☞ Photoelectric elements – EUR 60 000
- ☞ Photoelectric modules – EUR 69 000
- ☞ Construction works – EUR 15 000

☞ fixed shares (maximal shares) total value of the project and its any share may satisfy the requirement , in the foregoing requirement may satisfy 30% of the requirement, e.g. EUR 300 000 of polysilicon

☞ any other possible interpretation of NERC



# Approval of GT

- Rates of GT shall be approved by NERC for each producer after filling the application and the required package of documents regarding the constructed and commissioned SPP
- Term for passing a decision by NERC:
  - Consideration of documents package– 30 calendar days
  - Approval by NERC’s meeting– 15 calendar days
- GT documentation (stipulated by the respective NERC’s Resolution)
- GOOD NEWS! Approval fee is absent



# Approval of GT (expected changes)

➤ GT shall be established also for each SPP line and its launching complex

➤ If different fixed minimal GT rates apply to different SPP lines or its launching complexes, there should be separate counter for each line and launching complex

➤ NERC approves GT only subject to compliance with LCR?!

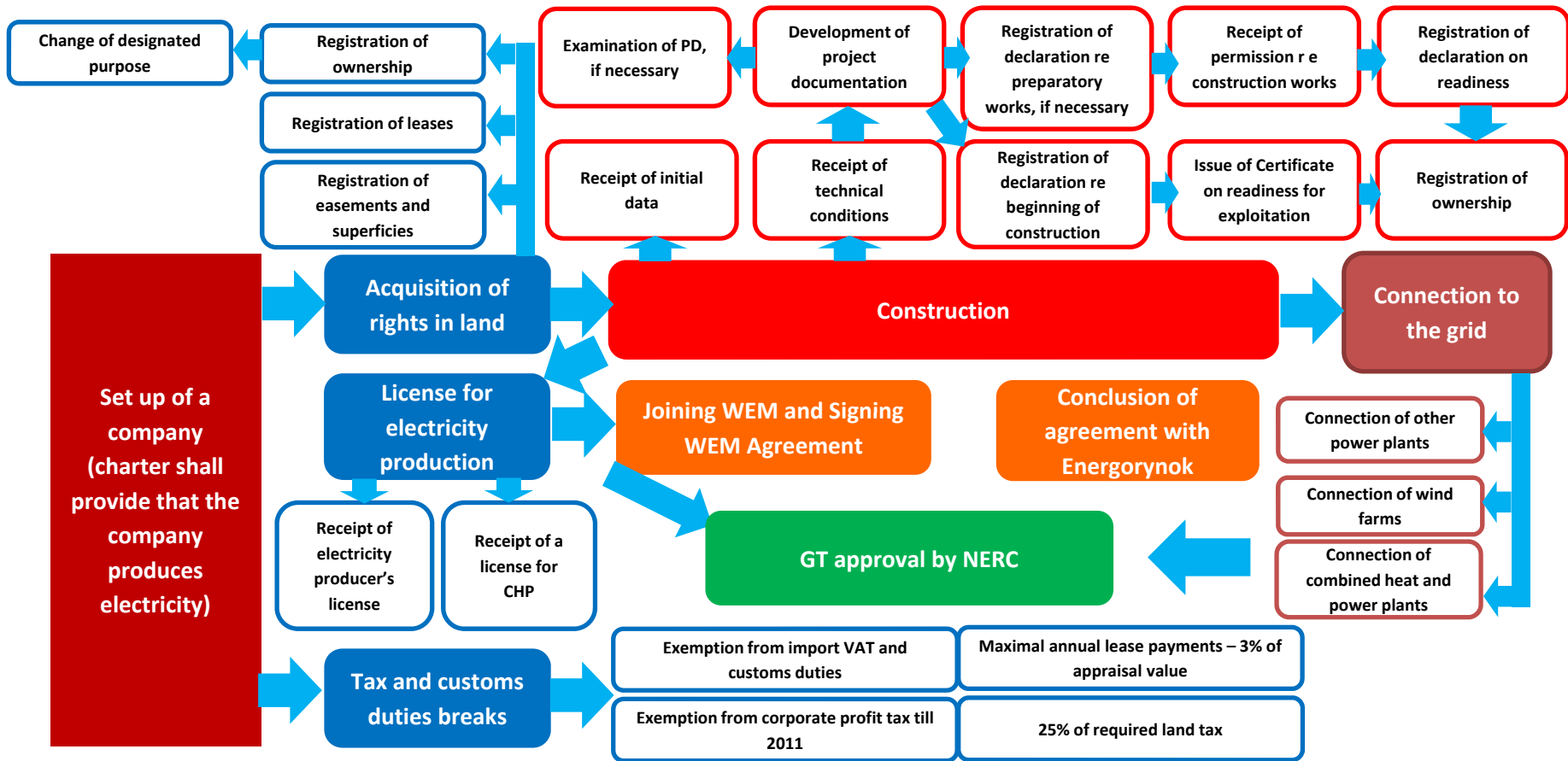


# Conditions for GT Projects Implementation

- Set up of a company
- Electricity producer license
- Connection to the grid (compensation of expenses related to grid connection)
- Participation in WEM and signing WEM Agreement
- Conclusion of agreement for sales of electricity with State Enterprise “Energorynok”
- Execution of documentation for power plants construction (documents on the use of land plots, project documentation, commissioning etc.)



# Conditions for GT Projects Implementation







# Legislative barriers

## Main legislative barriers for development of solar power projects under the GT

☞ state guarantee

☞ local content requirement

☞ connection to the grid

☞ small solar power plants

☞ unclear requirements to tax preferences



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