

CHAPTER 4

Regulatory Advocacy

A close look at the existing regulatory framework for Foreign Direct Investment in Nepal and recommendations that would doors to increased investment in the country's renewable energy sector





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This chapter is an excerpt from the publication: Lessons on how to promote and execute equity capital in the renewable energy sector of Nepal (Dolma Foundation, 2019).

The full publication can be accessed at: www.dolmaenergy.com/publication



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Dolma Foundation is a non-profit organisation, promoting prosperity by investing in education and sustainable business in Nepal that are risky for the private sector.

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DISCLAIMER

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EXECUTIVE SUMMARY

CHAPTER 1: ENERGY MARKET ANALYSIS

Chapter 1 sets the tone for the series in highlighting that commercial institutional investors are the only sector with the capacity to finance this gap.

Nepal currently sits on a USD 17.8 bn infrastructure gap (excluding transmission and distribution) which needs to be addressed.

A prime solar belt region with 300 days of sunshine, and holding an economically feasible potential of ~43,000 MW of hydropower, Nepal boasts impressive renewable energy potential.

Despite this, Nepal's total installed capacity (March 2018) stands at 1,017 MW – 968 MW from hydro resources and 49 MW from thermal alternatives. Solar capacity is limited to 1.2 MW.

Electricity imports remain high in the dry season (Oct-Mar) for both peak load and base load energy, and as of March 2019 stood at 650 MW.

The Nepalese Rupee has remained pegged to the Indian rupee since 1993, primarily in the interest of price stability.

Based on Dolma's findings, the Project Internal Rate of Return for hydropower projects in Nepal range from 15-20%.

The main barriers to entry in Nepal include political stability, policy stability, currency, weak governance, climate change and bureaucracy.

Barriers to exit include the process of repatriating funds (whereby multiple authorities are required to sign-off after taxes are paid); as well as the lock-in period of up to three years after IPO on the Nepal Stock Exchange.

While there is a clear opportunity to export electricity to India in future, a clear framework agreed by both parties has not yet been enforced.

CHAPTER 2: CLIMATE CHANGE

Chapter 2 reflects on the environmental and social implications of a changing climate. Known for its pristine glaciers and abundant flora, the Himalayan region has witnessed an alarming number of climate-related tragedies in the last two decades. Between 2000 and 2015, ICIMOD estimates that 45,534 people died due to flooding, 10,893 to extreme heat, and 191 by drought, in Himalayan countries alone.

Higher temperatures have resulted in glaciers receding at alarming rates, adding volume to Glacial Lakes which pose a threat to those living downstream in the event of a burst. Moreover, unpredictable river flow can be a threat to farmers.

This chapter also puts into perspective that while CO₂ rates remain high, the most immediate threat to the region – as identified in a series of recent reports from the Intergovernmental Panel on Climate Change (IPCC) and International Centre for Integrated Mountain Development (ICIMOD) – are short-lived climate pollutants, such as black carbon.

Despite its shorter life-span (approximately 50 years), black carbon is a warming agent with 1,500 times the warming effect of CO₂. According to research, fossil fuel sourced black carbon appears to have twice the particle-specific warming potential of biomass sourced black carbon.

Based on conversations Dolma has had with regional climate scientists, prioritising the mitigation of short term climate pollutants is paramount to reversing Himalayan glacial melt – of which one third is expected to disappear by 2100 in a business-as-usual environment.

CHAPTER 3: TRANSMISSION AND DISTRIBUTION

Chapter 3 traces Nepal's energy infrastructure development and progress. Unlike energy generation, Nepal's transmission network grew at an annual rate of 8% from 2008 to 2012.

Electricity markets in Nepal are gradually un-bundling. Until 1990 all production, transmission and distribution were vertically controlled by the Nepal Electricity Authority.

Since 1990, Independent Power Producers have added ~500 MW to the grid.

Despite plans to un-bundle the NEA's transmission and distribution business following The Hydropower Development Policy 1992, it was only with assistance from the Asian Development Bank in 2015 that the National Transmission Grid Company was set up.

As this publication went to print, the newly-found distribution company had still not made any significant progress.

There are some USD 817 mn allocated to the enhancement of Nepal's transmission and distribution, mainly led by key donors such as ADB, Government of Norway, MCC and JICA.

A further USD 471.5 mn is being spent on policy and institutional reforms led mainly by the World Bank, ADB, and Canadian Government.

CHAPTER 4: REGULATORY ADVOCACY

Chapter 4 puts forward a number of recommendations to government that would facilitate the enabling environment for international investors.

Nepal has over the last five years (2013-2018) amended and introduced several regulations to facilitate public-private partnership and encourage further private sector investment.

Despite the government's best intentions to prioritise infrastructure, some have labelled the planning "erratic": since 2001 there have been five strategic documents on energy capacity targets, one every three years on average.

The most recent government plan, from 2016, calls for the construction of 10,000 MW by 2030.

The World Bank and others have argued that to attract and retain investment to the tune of tens of billions of dollars, an enabling environment is required.

"Quick-Win" regulatory reforms that would have a disproportionately positive impact on the infrastructure investment environment in Nepal:

- Automatic route for foreign investment
- Foreign currency power purchase agreements
- Return on equity (ROE) clarifications
- Alternative and auxiliary energy tariffs (new technologies such as batteries)

Long-term reform opportunities beyond the scope of this project:

- Sovereign credit rating
- Cost-plus approach
- Competitive bidding
- Protection for seasonality
- Benefit sharing
- Cooperation with regional partners

CHAPTER 5: INSTITUTIONAL INVESTOR INVESTMENT LANDSCAPE

Chapter 5 identifies three key catalysts for driving institutional investors into frontier markets like Nepal: low global interest rates; the commercial viability of renewable technologies; and heightened public, shareholder and regulatory opinion in relation to carbon emissions.

The need to attract large amounts of FDI to finance Nepal's power needs is well documented, both the Investment Board of Nepal and National Planning Commission agree that to meet just domestic demand, approximately USD 18 bn is required in capital investment (both debt and equity), or USD 1.5 bn annually.

The Dolma team interviewed some of the world's largest institutional investors, testing the risk and return mandate for Nepal against their current and emerging risk strategies. Interviewees included funds with

assets under management from USD 1 bn to 6 tn.

These were our findings:

Some investors suggested that the required return on equity for construction risk could be up to 20%, provided a Nepal project vehicle can demonstrate equivalency to investment grade status after successfully mitigating risks.

Among institutional investors there is a clear negative bias against credit and currency risk, suggesting that FX risk, real or perceived, prevents perhaps trillions of dollars from flowing to the poorest economies.

Dolma's findings also suggested that a country's credit rating is fundamental to getting an investment proposal through the first step of the investment procedure. In some cases, the lack of a sovereign credit rating and international sovereign bonds for Nepal has been too large a barrier to overcome in our discussions with some investors who are often restricted to considering countries that are at least investment grade (BBB-).

Some solutions to perceived risks included adopting Political Risk Insurance (PRI); Currency Hedging Mechanisms; and Bank Guarantees, amongst others.

Investors interviewed fell into two groups – leaders and followers – the former willing to take higher risk in search of greater yield and the latter less so; 2) there is no clear connection between Assets Under Management (AUM) and risk profile when it comes to investing in frontier markets like Nepal.

CHAPTER 6: COMPLEMENTARY INVESTORS

Chapter 6 discusses complementary investors (or blended concessional finance) which provide a new wind of opportunity for institutional investors – previously unable to invest in frontier market because of perceived risk. Blended capital works to de-risk perceived obstacles.

Investment instruments typically involve the deployment of grants, concessional lending, guarantees, and equity. These are deployed using adaptable programme, policy and sector investment loans, debt swaps, PPPs, advanced market commitments, and first loss reserve tranches.

Green bonds have recently also proven to be a potential solution by providing debt financing to eligible climate change projects. As of 2018, green bond issuance reached some USD 250 bn.

Complementary investors have played a key role in attracting investment to Nepal's renewable sector – these include Development Finance Institutions such as FMO, OEEB, DGGF and FINNFUND, as well as Multilateral platforms like IFC and ADB.

As stated in chapter 5, Dolma finds that at least two blended finance instruments are required for institutional investors to consider a renewable energy project in Nepal: political risk insurance and a currency hedge.

Dolma's research finds that countries successful in solving these risks for investors were able to make bold moves within their own domestic economies.

Nepal could follow the path of successful governments in doing so by creating its own government backed instruments and enacting reform.

CHAPTER 7: LEGAL STRUCTURING

Chapter 7 explains the legal structuring backdrop which is an essential component for foreign investors considering large infrastructure in Nepal.

To invest in Nepal through the FDI route, it is important to analyse and decide upon which country to invest from. To date there are 15 jurisdictions which hold a Dual Taxation Agreement (DTA) with Nepal which mitigates the risk of paying double taxation.

Dolma finds that Mauritius is generally viewed as the "gateway" to Nepal because both countries hold a DTA – Mauritius is

also known as a transparent jurisdiction that ranks well according to the financial services index. It also has experience fund management and administrative services which manage approximately USD 670 bn in assets.

Despite Mauritius' favourable positioning, the choice of domicile is based on the circumstances and preferences of individual investors.

Dolma views the UK as one of many strong locations to set up a fund manager, and has based the examples in chapter 7 on an English limited partnership or UK company as the fund vehicle.

CHAPTER 8: FINANCIAL STRUCTURING

Chapter 8 explores key regulated and non-regulated institutions that could act as potential sources of financing for energy projects in-country.

Nepal is yet to formulate specific regulatory provisions for private equity funds that invest in private companies.

There are a number of private equity players investing in renewable energy in Nepal, which include IFC, Dolma Impact Fund I and Equicap.

Dolma found that key exit issues for international investors include, but are not limited to the following:

- Valuation at exit
- Taxation in change of ownership
- Repatriation issues

Dolma found that there could be some challenges for investors keen to invest through a project finance model, particularly for debt financing:

- A limited tenor and floating interest rates on long term loans.
- Generally, a limited capacity for banks to lend.
- A limited scope for corporate bonds, which is still a nascent market.

The chapter also explores key financial issues for investors and how to integrate

these solutions at the fund level: these include suggestions for currency risk, political risk, and debt risk.

CHAPTER 9: PROJECT DESIGN AND ENGINEERING

Chapter 9 focuses on the practical realities of executing renewables projects in Nepal, acknowledging that besides hydropower – Nepal's most mature energy asset class – other newer technologies such as solar and batteries could play a significant role in servicing growing supply, and providing auxiliary services.

Despite Nepal's installed generation capacity standing at 1,100 MW, there are some 7,000 MW in licenses that have been issued by the government to IPPs. The vast majority of these are for hydro-run-of-river (RoR) projects.

Dolma has identified a priority pipeline of hydro and solar projects that are optimal from a project execution perspective.

The chapter also includes a summary of leading battery technologies and which would be most suited in Nepal's context.

While there are no Nepali contractors that offer Engineer Procurement Construction (EPC) contracts this chapter analyses local firms that have a track record for hydro and solar projects in-country.

As financiers are increasingly aligning their investment mandates to the UN's Sustainable Development Goals, the chapter also outlines high level strategies for climate adaptation and resilience.

ABBREVIATIONS

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ABBREVIATIONS

ADB	ASIAN DEVELOPMENT BANK
BOO	BUILD OWN OPERATE
BOOT	BUILD OWN OPERATE TRANSFER
COD	COMMERCIAL OPERATION DATE
CSP	CONCENTRATED SOLAR POWER
DOED	DEPARTMENT OF ELECTRICITY DEPARTMENT
FDI	FOREIGN DIRECT INVESTMENT
GON	GOVERNMENT OF NEPAL
GW	GIGAWATT
HPP	HYDROPOWER PROJECT
IFC	INTERNATIONAL FINANCE CORPORATION
ILO	INTERNATIONAL LABOUR ORGANIZATION
IPP	INDEPENDENT POWER PRODUCER
IRR	INTERNAL RATE OF RETURN
KWH	KILO WATT HOUR
MW	MEGA WATT
NEA	NEPAL ELECTRICITY AUTHORITY
NPR	NEPALI RUPEE
PDA	PROJECT DEVELOPMENT AGREEMENT
PPA	POWER PURCHASE AGREEMENT
PROR	PEAKING RUN OF RIVER
PV	PHOTOVOLTAIC
ROE	RETURN ON EQUITY
SAARC	SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION
UK	UNITED KINGDOM
USA	UNITED STATES OF AMERICA
USD	UNITED STATES DOLLAR



1.1 INTRODUCTION

Over the last five years Nepal has amended and introduced several regulations to facilitate public–private partnership and encourage further private sector investment, both foreign and local, in the energy and infrastructure sector.

The Government of Nepal (GoN) has prioritised the development of energy and infrastructure and allocated financial resources to the development of large energy projects considered “priority”. But according to the World Bank’s latest insight into planning in the energy sector, it has been erratic: Since 2001, there have been five strategic documents, one every three years on average. Some of the targets over the last 17 years include:

- 2001: The GoN adopted a Water Resource Strategy, which was revised four years later into a National Water Plan.
- 2007: A plan calling for construction of 10,000 MW in 10 years was adopted.
- 2009: The 10,000 MW target was changed to a plan for 25,000 MW in 10 years.

- 2016: In the wake of an earthquake and trade disruptions that affected the import of petroleum, the government revised its plan, calling again for 10,000 MW in 10 years.

These plans are encouraging in that the government set a vision for future energy development, but they lack measures needed to develop a clear and well-regulated enabling environment for Foreign Direct Investment (FDI).

As the World Bank points out, attracting and retaining investment to the tune of tens of billions of dollars requires mechanisms for sharing risk; the provision of common infrastructure, such as transmission corridors and roads; and streamlined procedures in the context of a clear and strong legal and regulatory framework. Simply put, a significant change is required if Nepal wants to add the promised capacity in the next 10 years.



1.2 “QUICK WIN” REGULATORY CHANGES TO NEPAL’S RENEWABLE ENERGY ENABLING ENVIRONMENT

After conversations with stakeholders including donor agencies, national entities, and private industry players, we identified “quick wins” that may be accomplished in the next two years. This document does not suggest that these reforms can all be implemented at once; instead, a combination of them are viable given the right market signals and government cooperation.

QUICK WIN 1: AUTOMATIC ROUTE FOR FOREIGN INVESTMENT

BACKGROUND

- Currently, FDI approval in Nepal is cumbersome at best and damaging at worst. Investors are required to seek approval from a number of government institutions, including the Department of Industries, Nepal Rastra Bank, as well as the Industrial Promotion Board or the Investment Board of Nepal, depending on the investment amount. Based on Dolma Impact Fund’s experience, this process can take up to nine months. A nine month delay increases capital costs by 10.5% with current borrowing interest rates of >14%. It also increases the risk of committed investors backing out during the bureaucratic process of FDI approval as project or political conditions change on the ground.
- Adopting an automatic process, in line with India’s one-stop-shop for FDI approvals, is a more effective way to attract investment. Such a system would help Nepal attract investment while abiding by essential anti-money laundering (AML) principles it has committed to safeguard.

KEY STAKEHOLDERS

- Nepal Rastra Bank (the central bank)
- Department of Industry
- Ministry of Finance
- Foreign investors in Nepal
- Relevant embassies supporting FDI influx into Nepal (e.g. USA, India, UK, China)

PROGRESS SO FAR

- Limited. There has been some lobbying from private industry players, but the central bank has not so far signalled that it intends to implement an automatic route.

WAY FORWARD

- Increased awareness of benefits.
- Engaging with parliamentary committees and the central bank.
- Assistance from foreign treasury departments.

KEY RISKS

- Ensuring that an automatic route can be implemented without weakening AML compliance.
- Regulatory change that would slow the process for FDI approval.

QUICK WIN 2: FOREIGN CURRENCY PPA

BACKGROUND

- Clearer guidelines required on foreign currency PPA for the foreign debt and equity component, creating an improved picture for investors.

KEY STAKEHOLDERS

- Nepal Electricity Authority
- Ministry of Finance
- Ministry of Energy
- Nepal Rastra Bank (Nepal's central bank)
- IPPs relying on FDI

PROGRESS SO FAR

- Some positive initial steps: in July 2017, the government commissioned a committee to study and provide recommendations on foreign currency-denominated PPAs. The suggestions were as follows:
 - o Hydropower projects (HPPs) up to 100 MW shall have PPA rates denominated in Nepali rupees only.
 - o HPPs above 100 MW with some portion of debt in foreign currency shall have PPA rates in Nepali rupee and USD, subject to equity that is >20% of total investment. The above provision for PPA up to 10,000 MW.
 - o Foreign currency portion of PPA rates for HPPs >100 MW shall be the proportion of foreign currency loan to total investment at COD.
 - o Foreign currency portion of PPA rate shall be valid for a maximum of 10 years or the foreign currency loan payback period, whichever is shorter.
 - o 3% annual simple escalation for eight years to be applied to base tariff of foreign currency portion.
 - o Energy bills would be raised in Nepali rupees. Amount of foreign currency shall be calculated by taking the exchange rate published by Nepal Rastra Bank on the date that the PPA is signed.
- The NEA signed a USD-denominated PPA after the committee's recommendation was

published, with 120 MW Rasuwa–Bhotekoshi HPP and 216 MW Upper Trishuli–1 Hydroelectricity Project.

WAY FORWARD

- To start, the GoN might choose to adopt the recommendations mentioned by the study group.
- The recommendations only include hydropower projects. There should be clearer guidelines for other renewable energy classes, such as solar PV/CSP, wind, biomass, etc.
- A developer cannot get USD PPA under current provisions if it is financed through 100% foreign equity with no debt. Under the current guidelines on foreign currency PPAs, the government has, in principle, agreed to index up to 80% of a project's cost for 10 years. A logical extension of this policy would be to extend the coverage to 80% of a project's cost without regard to the capital structure. This would allow investors the flexibility to structure the investment that maximises local currency debt and equity while also providing dollar protection for equity for 10 years without more exposure than they would have under the current policy. The government could be amenable to extend tenure of protection beyond ten years by reducing the dollar portion from 80% to, say, 20% over a further period of 3–5 years.

KEY RISKS

- As mentioned, the committee has only considered HPPs that use foreign currency-denominated debts. This might discourage investors who may wish to bring in foreign equity and use loans from the local banking market.

QUICK WIN 3: RETURN ON EQUITY (ROE)

BACKGROUND

- In line with the GoN's statement from January 2017, investors in HPPs can expect a maximum ROE of 17%. The statement was formalised through a NEA Board decision on 27 April 2017. The board decided that the base rate for run of river projects above 100 MW, all peaking run of river projects and all storage projects, would be scaled down to give an effective return on equity of 17%.

KEY STAKEHOLDERS

- Nepal Electricity Authority
- Department of Electricity Development (DoED)
- Ministry of Energy

PROGRESS SO FAR

- Limited progress to date in challenging the GoN expected ROE rates or investigating how they arrived at this figure.

WAY FORWARD

- The government limits the return on equity by offering a feed-in-tariff for hydropower, solar, and wind projects. The cap on return on equity could be relevant where tariffs are based on some other method, such as cost plus percentage. Good projects with higher risk but potentially higher ROE could suffer if government enacts provisions to limit returns. Hence, the government should consider replacing the provision of a set ROE with a focus on optimising feed-in tariffs only.

KEY RISKS

- The government runs the risk of framing IRR expectations without adequate financial analysis. Besides, required IRR for a project depends on various factors such as investors'

risk appetite, engineering and geographical risk, hydrological risks, size and complexity of the project, etc. The arbitrary selection of 17–18% IRR may dissuade investors from entering the Nepalese market.

- IRR and ROE may be computed in several ways and investors could seek to circumvent this restriction.

QUICK WIN 4: SOLAR/WIND TARIFFS

BACKGROUND

- As demonstrated in Chapter 9: Project Design and Engineering, the solar PV potential in Nepal is large.
- Terms for solar PPAs are unattractive to investors without external support such as viability gap funding and subsidised financing.
- Tariffs are not based on the cost of a solar PV project but seem to be benchmarked against hydro tariffs and solar tariffs in other countries that have different implementation costs.

KEY STAKEHOLDERS

- Nepal Electricity Authority
- Ministry of Energy
- Multilateral stakeholders involved in reform process, such as IFC

PROGRESS SO FAR

- In November 2017, the Ministry of Energy approved procedures for grid connected solar PV generation. The relevant highlights of the new procedures are:
 - o Tenure of production and generation license: 35 years
 - o Principle of PPA: Take or pay
 - o Currency of PPA: Nepali rupee
 - o PPA rates: NRS. 7.30/kwh
 - o Escalation clause: None
 - o Tax relief: Same as that for HPPs
 - o Land and Transmission lines: To be

- o arranged by the developer
- o Royalty: None
- o Total capacity of Solar power: 15% of the total installed capacity
- In December 2016, ADB, through the Strategic Climate Fund, provided USD 20 million as grant assistance. The grant assistance will be used to provide viability gap fund under NEA's PPA with private entities generating solar power.

WAY FORWARD

- The Nepal Electricity Authority/Ministry of Energy should consider internationally benchmarking the cost of developing solar PV/wind projects in Nepal as was done by the Central Electricity Regulatory Commission of India. The government should set tariff levels based on this exercise rather than benchmarking tariffs against hydro tariffs.

KEY RISKS

- At the current tariff level, there is a risk that solar/wind projects would not be developed without significant concessional financing.

1.3 FURTHER OPPORTUNITIES FOR REFORM BEYOND SCOPE OF PROJECT

Beyond quick-win regulatory reform, which may conceivably occur within two years, opportunities remain for longer-term regulatory reform in the 2+ years to follow, speculatively listed below. This section highlights positive developments in India that Nepal could adopt.

FURTHER OPPORTUNITY 1: SOVEREIGN CREDIT RATING

Based on Dolma's conversations with commercial institutional investors in Europe and North America, an investment grade sovereign rating (BBB-) is a prerequisite for international investment in Nepal. Some banks in Nepal have lobbied the government to issue a bond to obtain a sovereign rating on the international market. Although Nepal's rating would likely not be investment grade, this move would allow investors to look up Nepal on the international debt market and price sovereign credit risk, possibly hedging the difference between Nepal's rating and investment grade. A handful of sources in Nepal's banking sector confirm that the government is interested in obtaining an initial rating.

The ADB and IFC are attempting to issue local currency bonds. Commercial banks have lobbied for this as well. There is an expectation from the individuals interviewed that should the GoN issue a bond, it would not be rated as investment grade by international rating agencies, but Dolma believes this would be better than no rating at all.

FURTHER OPPORTUNITY 2: COST-PLUS APPROACH

- Cost plus is a mechanism which enables developers to ascertain their PPA rate. This would help to improve the system in place for determining PPA rates in Nepal, which are currently set on fixed posted rates. India has implemented this in the past.

FURTHER OPPORTUNITY 3: COMPETITIVE BIDDING PROCESS

- As we have seen in India, especially in its solar market, a competitive bidding process drives down prices. While it may still be early in Nepal to implement this process, it is a move the NEA or a future regulatory authority should work towards.

FURTHER OPPORTUNITY 4: PROTECTION FOR SEASONALITY

- Indian renewable energy PDAs place a protection mechanism for seasonal changes throughout the year, an incentive for foreign investors to consider projects in India. Nepal currently does not have such a mechanism in place, which could be a deterrent to FDI.

FURTHER OPPORTUNITY 5: BENEFIT SHARING

- The successful benefit sharing in water basins can be a tool for poverty reduction, sustainable development, and long-term political stability.

- Benefit sharing between developers and local people is a crucial issue during the construction of HPPs in Nepal, as local people feel that they have primary right to natural resources in their area. The ILO Convention No 169 gave special rights, though these have not been clearly defined, to indigenous and tribal people for the use of natural resources in their area.
- Clear mechanism of benefit sharing among federal, provincial, and local government should be in place. The National Natural Resources and Fiscal Commission is devising formulas to allocate royalties earned from different natural resources. In the first phase, they plan to collect data and study them to devise a formula to do so.

FURTHER OPPORTUNITY 6: COOPERATION WITH REGIONAL PARTNERS

- The opportunity for regional cooperation is a long-term goal. The prospect of Nepal becoming the “battery” of South Asia and a

major energy exporter or trader should open the door to larger investment opportunities. With a fully integrated regional grid, Nepal is expected to increase its installed capacity by 52 GW, mainly for export to its neighbours.

- Member countries have signed the SAARC framework agreement for energy cooperation. This agreement contains broad-ranging provisions for establishing a regional market for electricity, including non-discriminatory access to transmission, market-based pricing of electricity exchanged, and the establishment of a body for coordinating regional power integration and trade. However, India’s Ministry of Power has published “Guidelines on Cross Border Trade of Electricity”, which prohibits export of power to India from projects developed by non-Indian private sector companies.

1.4 A FULL LIST OF REGULATORY BARRIERS, WITH SUGGESTED ENHANCEMENTS

See below a summary of barriers and suggested enhancements (compared to India).

TABLE 1 LIST OF REGULATORY BARRIERS IN NEPAL

Regulatory Barriers	Suggestions
Quick Wins	
Automatic route for foreign investment	Implement automatic route for foreign investment with a one-stop-shop, or allow funds to be invested in Nepal before approvals and held for 30 days while AML checks are done, as in India. At the least, the automatic route should be implemented in specific sectors including energy and infrastructure.
Foreign-currency PPA	Create clear guidelines for foreign currency-denominated PPAs for all energy asset classes.
Land ownership after tenure	Provide clarity on land ownership after project tenure for wind and solar asset classes.
Return on equity	The maximum ROE stipulated by the government needs to be updated and properly explained.
Solar and wind tariffs	The Ministry of Energy published the solar working procedure, which is a welcome move. However, the current working procedure does not provide enough incentives to large developers and requires revision to make it attractive to solar developers.
Long term changes	
Sovereign credit rating	Nepal needs to obtain a sovereign credit rating. This is a requirement for most large international investors. As the government will honour the PPAs, if rated below investment grade, investors will be able to quantify risk.
Cost plus approach	Create a mechanism by which developers are paid on cost plus percentage basis rather than fixed or increasing feed-in tariffs.
Competitive bidding process	Competitive bidding process should be a long-term target with an independent regulator and a clear market mechanism in place.
Protection for seasonality	Protection should be given to developers in case of changes in resources (hydrological, solar, etc.) due to seasonal changes.
Benefit Sharing	Create clear guidelines to share hydropower benefits among various stakeholders (local government, provincial government, federal government, local people, etc.) through royalty, equity buy-ins, etc.
Cooperation with regional partners	Continue to engage actively at the provincial level to enable policies and frameworks for regional power trading.



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