

Despite a lot of hype, interest in developing solar energy in the Arabian Gulf has yet to translate into delivered projects. Kevin Connor looks at some of the hurdles that have so far prevented foreign investors from buying into a potentially lucrative market.

Much has been written recently about the huge potential for the development of a solar energy industry in the six-country Gulf Cooperation Council (GCC) and the broader Middle East and North Africa (MENA) region. Indeed, the potential levels of installed capacity being discussed have attracted the attention of investors and industry players from around the world. This enthusiasm is well founded given the concrete steps that countries in the region have been taking to develop sustainable renewable energy as a significant part of the region's energy mix. While the solar energy business is still in its infancy in the GCC, there is no doubt that solar energy constitutes a very real potential renewable energy source to all GCC countries.

Benefiting from some of the world's highest irradiation levels, the GCC countries have rightly determined that solar energy can help preserve oil export revenues, play an important role in reducing carbon emissions and act as an incubator for technological development.

While solar projects have been announced or are under development in all GCC countries, Saudi Arabia and the UAE have to date announced the most ambitious programmes – 54GW and 20GW by 2030 respectively. Dubai has targeted 5% of its energy from solar by 2030 – a significant figure once the growth in demand for energy is factored in. Oman, Qatar, Kuwait and Bahrain have also commissioned various studies and/or announced plans to develop solar power. While the levels of installed capacity planned or under development are impressive, the actual levels of built solar capacity are still relatively small – though solar facilities are already up and running in the UAE and Bahrain.

Given the current significant gap between potential and actual built solar capacity, the question is frequently asked whether the projected levels of installed capacity are realistic or could really happen. Investment to date has been rapidly increasing, though from a low base – across MENA investment in renewables rose 40% last year to US\$2.9 billion according to the International Renewable Energy Agency.

However, while the time frames being discussed today for future capacity are likely overly optimistic, the need to develop solar is real. The six GCC countries are some of the largest consumers of energy in the world. They are increasingly using their own oil reserves to fuel the energy demands created by increasing population, economic growth and the need for desalinated water. In short, there is no choice but to pursue solar energy as well as other renewable energy sources. This is the reality driving governments in the GCC and the MENA region generally to actively develop solar projects.

Solar Support

As a general observation, all of the GCC countries are looking to domesticate the solar industry, whether by encouraging the development of GCC-based PV manufacturing capability, the creation of joint ventures with local companies, the provision of economic incentives, the creation of agencies to support the development of solar energy, the addition of regulatory capacity or otherwise.

Nearly all MENA countries are actively looking at policy initiatives such as foreign investment treaties, tax incentives or public subsidy to encourage investment. For example, Dubai and Bahrain, recognising the need to meet ever increasing demand, have opened their energy sectors to direct foreign investment. In Jordan, the government has announced subsidies for renewable energy projects. In Saudi Arabia, the largest potential solar energy market, the government established the King Abdullah Center for Atomic and Renewable Energy (KACARE) in an effort to diversify its energy mix. KACARE has been active in promoting the development of a Saudi solar industry by establishing a Sustainable Energy Procurement Company, a Sustainable Energy Research Fund, the Sustainable Energy Services Center and the Sustainable Energy Training Fund. KACARE also published a White Paper depicting the anticipated procurement process and identifying criteria to be used in awarding renewable energy projects.

Evidence that these policies, initiatives and incentives are working can be seen in the very significant interest displayed by solar industry players in the region. The list of active players, which is expanding by the week, includes PV manufacturers, solar technology companies, developers, contractors, operators, regulatory experts, financiers and private equity companies. Consulting companies, lawyers and accountants have or are considering setting up special departments to service this growing industry. Not surprisingly, experienced solar industry companies from China, Europe and North America have expressed increased interest in ventures in the region.

Established in 1991, the GCC includes Saudi Arabia, Qatar, the United Arab Emirates, Kuwait, Oman and Bahrain. All of the GCC countries have become members of the World Trade Organization (WTO), making entry and business set-up in each country much easier for foreign investors. Prior to accession to the WTO, many business activities in the region were restricted to GCC nationals or, even more specifically, to the national of each country. Now the doors have opened, allowing foreign investment. Nonetheless, countries have still maintained some local participation especially requirements in government funded projects. This may be the case in certain solar projects across the region.

In addition, each GCC country has implemented measures to attract foreign investment, often offering foreigners similar benefits to those attributed to locals when embarking on new investments. Out of the six countries, Saudi Arabia currently ranks highest in ease of doing business, as reported by the World Trade Organization, followed by the UAE and Qatar. The remaining GCC countries are slowly opening the door and issuing incentives to allow for growth and more foreign investment.

While some companies have had a business presence in the GCC for years, others are new to the market. Many new entrants have recently established an operating entity in one or more of the GCC countries, and/or have entered into discussions with potential partners to bid on solar projects and establish a strategy going forward. Separate from any legal requirements that may require the foreign investor to partner with a local firm, most industry players recognise the significant value a local partner will bring. Not surprisingly, many large GCC-based players are also entering the fray such as Saudi Aramco and ACWA power. Whether through joint venturing with Chinese PV manufacturers or through complicated EPC, teaming arrangements and other structures, GCC-based companies are ready to get in on the action as the nascent solar business in the region grows and develops. This trend will continue.

Multiple Investor Challenges

While there is no doubt that installed capacity (utilising both CSP and PV technologies) in the GCC will increase dramatically in the years to come, investors looking at the region must consider multiple issues beyond those directly related to the industry itself and especially related to the investment and legal climate in general. These are the existence (or lack) of clear regulatory guidance, tariff and off-take structures, the availability of financial incentives, the requirement or need to involve local partners, bidding and procurement rules and procedures, availability of materials, custom duties and availability of labour, as well as the usual myriad of other issues that may affect any investment such as the ability to expatriate monies, licensing, tax and permitting — to name just a few.

The means investors use to approach these issues will have a direct impact on the potential for success. For example, if a company is interested in providing EPC services on a solar project in Saudi Arabia, the company will first have to understand whether it can obtain a licence to provide those services, and whether it must do so with a Saudi partner, or under some subcontract or other offshore structure.

In addition to the items touched on above, other risk factors do come into play such as the political risks in the region created by the Syrian conflict, the Egyptian crisis, increased sectarian tensions and the general uncertainties created by the Arab Spring. Other industry specific considerations include the somewhat start and stop nature of certain initiatives, uncertainty surrounding regulators' approach to tariff structures, which solar technologies will be preferred and in what applications, how solar will be incorporated into the grid competitively and technical challenges related to connecting solar projects to the grid as well as general uncertainty as to the effectiveness of regulators.

Irrespective of the challenges and short-term potential risks, the long-term potential rewards and stakes are huge. The GCC governments know that solar is critical to the future development of the GCC, and, given the intense level of activity in the region of late, the private sector is aware as well.

About the Author

Kevin Connor is partner and regional co-ordinator for MENA at law firm Squire Sanders.

This article was first published in Solar Business Focus.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

© Squire Sanders.