

# Turkey: Generating Electricity From Renewable Energy Resources Under Turkish Law

Last Updated: 30 April 2009

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After the oil crisis in 1973, greater interest was directed towards renewable energy resources. At that time, the aim was to focus on alternative energy resources in order to be less dependent on oil as an energy resource. After it has been proved that the burning of fossil fuels has a negative impact on climate change, the importance of renewable energy resources has been widely recognized throughout the world with an effort to prevent the undesirable effects of pollution both from burning fossil fuels and from nuclear waste products. The industrialized countries have been making plans and implementing projects to support and increase the use of renewable energy resources for a considerable time. Governments all over the world have been carrying out different support programs to ensure the increase in the electricity production from renewable energy resources and to develop and maintain investors' confidence in this area, by providing investors engaged in the production of energy from renewable energy sources with tax exemptions or reductions, investment aids or granting a guarantee of origin. The promotion of generating electricity from renewable energy resources has also become the priority of the European Union (the "EU") countries. The EU countries have undertaken that at least 12% of their gross domestic energy will be produced from renewable energy resources until 2010, by the adoption of an EC Directive on the promotion of electricity produced from renewable energy resources<sup>1</sup>.

Turkey has recently begun to take actions to encourage and increase the production of electricity through the use of renewable energy resources. For this purpose, the Law on Utilization of Renewable Energy Resources for the Purpose of Generating Electrical Energy dated May 10, 2005 and numbered 5346 (the "Renewable Energy Law") was enacted. Furthermore, a proposal of Law on the Amendment of the Renewable Energy Law (the "Proposal") has been submitted to the relevant commission of the Grand National Assembly of Turkey. We will analyze below the noteworthy points of the Renewable Energy Law and the significant amendments to be introduced by the Proposal.

## The Renewable Energy Law

The Renewable Energy Law was enacted to encourage the production of electricity by using renewable energy resources, to help protection of the environment and also to bring our legislation in harmony with the EU legislation so that the same standards adopted by the European Union can also be adopted in Turkey. The Renewable Energy Law aims to draw the attention of investors in the energy market by offering an attractive environment to investors engaged in the production of electricity by using renewable energy resources.

The cornerstone of the Renewable Energy Law is the purchase-guarantee system stipulated under Article 6. Pursuant to Article 6 of the Renewable Energy Law, each legal entity holding a retail sales license is obliged to purchase electricity from the electricity producers holding certificates of renewable energy resource (the "CRER")<sup>2</sup> and using production facilities which have been operated for less than ten years. In the same Article, it is stated that the amount of electricity to be purchased by a retail sales license holder will equal to the proportion of the total electricity sold by the license holder in the previous year to the total amount of electricity sold in the Turkish market. Pursuant to Article 6, these purchases will be made over the average wholesale electricity price determined by EMRA for the previous year. Article 6 also determines a minimum and a maximum price for such purchases and states that the purchase price of the electricity produced from renewable energy resources will be Euro Cent 5 /kWh, at the minimum and Euro Cent 5,5 /kWh, at the maximum. Therefore, the price determined by EMRA cannot be less than Euro Cent 5 /kWh and more than Euro Cent 5,5 /kWh. However, the Renewable Energy Law permits legal entities with CRERs to sell the electricity produced from renewable energy resources in the free market and at a price more than the purchase price set forth in this Article, if they have any such opportunity. Article 10 of the Renewable Energy Law stipulates certain sanctions to be imposed on retail sales license holders which do not comply with the purchase obligation set forth under Article 6. Based on our contacts with the officers of EMRA, we understand that at the time of our analysis, there has not been any application to EMRA to obtain a CRER and all the producers choose to sell the electricity they produce in the free market.

Another incentive stated under the Renewable Energy Law relates to the use of immovable property owned by the Treasury or under the administration of the State for the purpose of production of electricity from renewable energy resources. Pursuant to Article 8 of the Renewable Energy Law, facilities which will start their operations until 2012 shall be entitled to a discount of 85% over the amount to be paid in consideration for the lease or right of use or right of easement on such lands during the first 10 years as of the date of their establishment.

## **The Proposal**

The most noteworthy amendment suggested by the Proposal is the determination of different purchase prices for the electricity produced from different types of renewable energy resources. Pursuant to the Proposal, different prices varying from Euro Cent 5 /kWh and Euro Cent 18 /kWh will be applied to the purchase of electricity depending on the type of renewable energy resource used. The Proposal has a more realistic approach than the Renewable Energy Law as it contemplates application of different prices depending on the type of renewable energy resource and thus, responds better to the needs of the sector.

## **Conclusion**

Today, the promotion of the use of renewable energy resources is vital for the future of all countries. Although Turkey has significant renewable energy resources for electricity production, this potential has not yet been used efficiently by local or foreign investors. The renewable

energy resources in Turkey may be considered as a developing and promising opportunity for foreign and local investors, however, in order to attract the attention of investors, government has to make sure that the market conditions are appealing to them. The legislator in Turkey is taking important steps in order to promote the use of renewable energy resources in the production of electricity and to encourage the investments in this market. However, even if the Proposal were to be enacted without any change, the needs of the market may still not be completely satisfied. Therefore, the legislator must have a progressive approach regarding the renewable energy resources since there are always steps to be taken in such a developing and demanding market.

## Footnotes

1 Directive 2001/77/EC of the European Parliament and of the Council dated 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market

2 The electricity producers using renewable energy resources are granted a CRER by the Energy Market Regulatory Authority (the "EMRA"). The purpose of giving a CRER is to determine the source of the electricity purchased and sold in the market.