



# Projects & Infrastructure

Power Guide:  
Zanzibar

ONE REGION  
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## Introduction

This Power Guide has been prepared by ALN Tanzania | Anjarwalla & Khanna Tanzania (**ALN Tanzania**) and provides an overview of Zanzibar's power sector. It provides useful information to investors and stakeholders on legal aspects of the industry, such as applicable regulatory standards and tariffs.

Zanzibar is a semi-autonomous region of the United Republic of Tanzania consisting of two main islands, Unguja and Pemba. According to the Constitution of the United Republic of Tanzania and the Union of Tanganyika and Zanzibar Act, 1964 energy is not classified as a "union matter", and therefore Zanzibar has autonomy with regard to decision-making within the energy sector.

## Governing Law



- The Constitution of Zanzibar of 1994 (Revised in 2006)
- **Statutes:**
  - The Zanzibar Utilities Regulatory Authority Act, 2013
  - The Zanzibar Electricity Corporation Act, 2006
  - The Companies Act, 2013
  - The Public Procurement and Disposal of Public Assets Act, 2016
  - The Public Private Partnerships Act, 2015
  - The Environmental Management Act, 2015
  - The Zanzibar Investment Promotion and Protection Authority Act, 2018
  - The Tanzania Revenue Authority Act, 2019
  - The Zanzibar Revenue Authority, Act No. 11 of 2022
- **Other laws, regulations, and policies including:**
  - The Electricity (Generation Services) Regulations, 2019
  - The Electricity (Supply Services) Regulations, 2019
  - The Electricity (Transmission Services) Regulations, 2019
  - The Electricity (Distribution Services) Regulations, 2019
  - The Zanzibar Utilities Regulatory Authority (Customer Complaints Handling Procedure Regulations), 2018
  - The Energy Policy, 2009
  - The Public Private Partnerships Regulations, 2017
  - The Public Procurement and Disposal of Public Assets Regulations, 2020

## Institutional Framework

### Zanzibar Utilities Regulatory Authority (ZURA)



A multi-sectoral regulator responsible for the technical and economic regulation of the water, petroleum, and electricity sectors. Its functions in the energy sector include licensing, regulating tariffs in consultation with the Minister of Water, Energy and Minerals, regulating feed-in tariff on energy, reviewing and approving power purchase agreements and controlling the quality and standard of electricity. ZURA is also responsible for promoting effective competition and economic efficiency.

### Ministry of Water, Energy and Minerals (the Ministry)



The Ministry, through the Department for Energy and Minerals, is responsible for policy setting and coordination of the energy issues in Zanzibar. The Ministry also supervises the Zanzibar Electricity Corporation (ZECO) which is the national power utility company.

### Zanzibar Electricity Corporation (ZECO)



ZECO is Zanzibar's national power utility summarily responsible for the generation, transmission and distribution, and sale of electricity on both the Unguja and Pemba islands. It is a vertically integrated public company fully owned by the Revolutionary Government of Zanzibar (the **Government**).

Some of the key functions undertaken by ZECO include: (i) the establishment, acquisition maintenance and operation of works and undertakings for the generation, transmission, transformation, distribution and supply of electricity to consumers in Zanzibar; (ii) construction or erecting, alteration and maintenance of machinery, plant, electricity supply lines, mains and other apparatus; (iii) enter into contracts with any public, local authority or any person for the purchase and supply of electricity or for any other purpose; and (iv) to enter into agreements for the purchase of electricity in bulk from independent power producers within or outside Zanzibar for resale to consumers.

### Tanzania Revenue Authority (TRA) and the Zanzibar Revenue Authority (ZRA)



TRA is established by the Tanzania Revenue Authority Act. Its primary mandate is to assess, collect and account for all revenue on behalf of the central government. TRA administers customs, excise, and income taxes in Zanzibar.

The ZRA was established under the Zanzibar Revenue Authority Act No. 11 of 2022. Its main functions include assessing, collecting, and accounting for all revenues under the revenue laws of Zanzibar.

### Zanzibar Public-Private Partnership Department



The Zanzibar Public-Private Partnership (PPP) Department is a coordinating entity for all PPP projects in Zanzibar. It is established under the Zanzibar Planning Commission and serves as the secretariat for the PPP Technical Committee.

Its key role is to ensure that PPP projects conform with the Government's objective by providing technical support to public authorities in the PPP process, ensuring due process is followed and all relevant approvals are obtained.

### PPP Technical Committee



This committee is established under the Public Private Partnerships Act, 2015 and is responsible for reviewing project feasibility studies, requests for proposals and contracts for Major Projects (defined below) and providing recommendations to the Principal Secretary of the Ministry of Finance and Planning.

A Major Project is defined in statute as a project which has an investment cost of more than USD. 10 million or a value prescribed by the Minister for Finance under a Legal Notice, results in Government liabilities or is for the provision of monopolistic services.

### Zanzibar Investment Promotion Authority (ZIPA)



ZIPA is a government institution responsible for the promotion and facilitation of investment in Zanzibar. Its functions include: (i) facilitating investment and ensuring a conducive business environment; (ii) acting as a focal point for the promotion and facilitation of investments and business; (iii) providing institutional support for economic development; and (iv) ensuring coherent economic and business policy formulation.

### Public Procurement and Disposal of Public Assets Authority (the PPADA Authority)




The Public Procurement and Assets Disposals Act establishes the PPADA Authority charged with: (i) maximizing efficiency in public procurement; (ii) overseeing the activities of procuring and/or disposing entities; (iii) developing the standard form of contract, bidding, pre-qualification documents and any other public procurement related documents for use by procuring entities; and (iv) registering and maintaining a register of providers of works, services, and supplies among others.

### Zanzibar Environmental Management Authority (ZEMA)



ZEMA is responsible for coordinating, regulating, monitoring, and supervising the environmental management concerns in Zanzibar. Additionally, any approvals and permits required under the Environmental Management Act are obtained from ZEMA as the licensing authority thereunder.



## Power Purchase Agreements (PPA) Between Independent Power Producers (IPP) and the Off-taker (ZECO)

- For the past few years, Zanzibar has been fully dependent on mainland Tanzania for their supply of electricity relying on two PPAs concluded between ZECO and Tanzania Electric Supply Company Limited (TANESCO) for a term of twenty (20) years. In addition, there has been a vacuum on precedent PPAs to rely on in order to adequately provide information on PPAs concluded with IPPs in Zanzibar.
- Nonetheless, Zanzibar has begun diversifying its power sources and reducing its overreliance on TANESCO by recently inking deals with two IPPs for the development of renewable energy power plants. These IPPs include: (i) Astra Energy Inc. which received a letter of commitment in March 2023 from the Government to provide 200 acres of land for the development of a 50MW renewable energy project; and (ii) Taifa Group and Generation Capital Limited which in May 2023 concluded a PPA with ZECO for the development of a 180MW solar power project.
- Regarding tariffs in general:
  - ZURA is responsible for the regulation of tariffs and any tariff contained in PPAs must be approved by ZURA;
  - ZECO may propose any change to retail electricity tariffs/ end-user tariffs, subject to approval by ZURA;
  - the law of Mainland Tanzania applies to foreign exchange controls, and there are no exchange controls in Tanzania that restrict a project company from obtaining payment in freely convertible currency; and
  - the laws in Zanzibar are not clear on the nature of passthrough costs to the consumer.
- Zanzibar laws do not provide for: (a) model PPAs; (b) the duration of PPAs concluded between IPPs and the oftaker; and (c) termination rights under PPAs.

## Local Shareholding Requirements

- Currently, there are no restrictions on ownership of shares by foreign investors or local equity participation requirements in a project company that intends to set up a renewable energy project in Zanzibar.
- However, industries in the telecommunications, petroleum and mining sectors are required to adhere to the local shareholding requirements set out under the respective statutes.

## Government Support Arrangements

- The Government may provide financial support for PPP projects in the form of government guarantees, tax incentives, capital contributions, land, operating grants, or payments among others.
- Such support is subject to: (i) prior recommendation by the technical committee of the PPP unit; (ii) approval of the Minister in charge of PPPs; and (iii) an assessment on the basis of value for money.



## Key Approvals/Licenses Required to be Procured.

- Provisional license issued by ZURA for conducting assessments, studies, financial arrangements, and other activities necessary for applying for a generation license.
- PPA review and approval by ZURA is required before execution.
- Electricity Generation License issued by ZURA.
- License to practice as a registered contractor with the Zanzibar Contractors Registration Board.
- Environmental Impact Assessment Certificate issued by ZEMA.
- Registration of an entity in Zanzibar with the Business & Property Registration Agency

## Governing Law and Dispute Resolution

- There is an overlap between the PPP Act and the PPADA regarding the procurement of power projects in Zanzibar. The PPP Act provides that the parties to a PPP Agreement are free to choose the law governing their relations while the PPADA is silent on the issue.
- The dispute resolution and arbitration framework in Zanzibar is nascent. The Arbitration Decree, which sets out the rules and procedures to be followed with respect to arbitration proceedings in Zanzibar, only applies to arbitration to which the Government is a party.
- Mainland Tanzania ratifies international treaties or conventions on behalf of Zanzibar, on this basis Tanzania has ratified the New York Convention, but it has not enacted the same in its municipal laws. The convention cannot therefore be relied upon for the domestic enforcement of a foreign award.

## Power Sector Experience

ALN Tanzania working closely with ALN Kenya works on landmark transactions in the country and increasingly in East Africa. In particular, ALN Tanzania has unique on the ground experience in infrastructure and energy deals in Kenya and other African jurisdictions. ALN Tanzania has strong business and

regulatory relationships enabling a concise understanding of structuring a deal in light of potential economic, political and financial risk. ALN Tanzania working closely with ALN Kenya has handled more than 15 of the largest power deals in Zanzibar and Mainland Tanzania.



**Otto Energy:** Advising Otto Energy, a company that explores, develops, and produces oil and gas primarily in the Philippines and East Africa, in connection with its farm out of a 25% participating interest in the Kilosa-Kilombero contract area under the relevant production sharing agreement.



**ExxonMobil:** Acting for ExxonMobil, the world's largest publicly traded international oil and gas company, in connection with the establishment of operations in Tanzania and on its farm in with StatoilHydro in respect of Off Shore Block 2.



**Dowans Tanzania:** Acting for Dowans Tanzania in connection with the establishment of a hydropower project in Tanzania.



**Confidential:** Advising one of the largest providers of Energy Solutions in the U.S, in connection with the construction of power lines in Tanzania.



**Government of Tanzania and TANESCO:** Acting for the Government of Tanzania and the Tanzanian utility, TANESCO, in connection with the proposed Ruhudji Hydropower project.



**Sumitomo Corporation:** Acting for Sumitomo Corporation, a leading global integrated trading company, in connection with the establishment of a 240 MW Combined Cycle Power Plant.



Acting for **Boundary Holdco**, a wholly owned subsidiary of Helios Investment Partners, an Africa-focused private equity firm, in connection with their acquisition of Off Grid Electric, a Cayman Islands company that installs and maintains solar power systems for rural households and small businesses.



**Confidential:** Acting for one of the largest pension funds in Africa in connection with its investment in a 318MW combined cycle gas turbine electricity generation facility in Tanzania

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## About the Firm

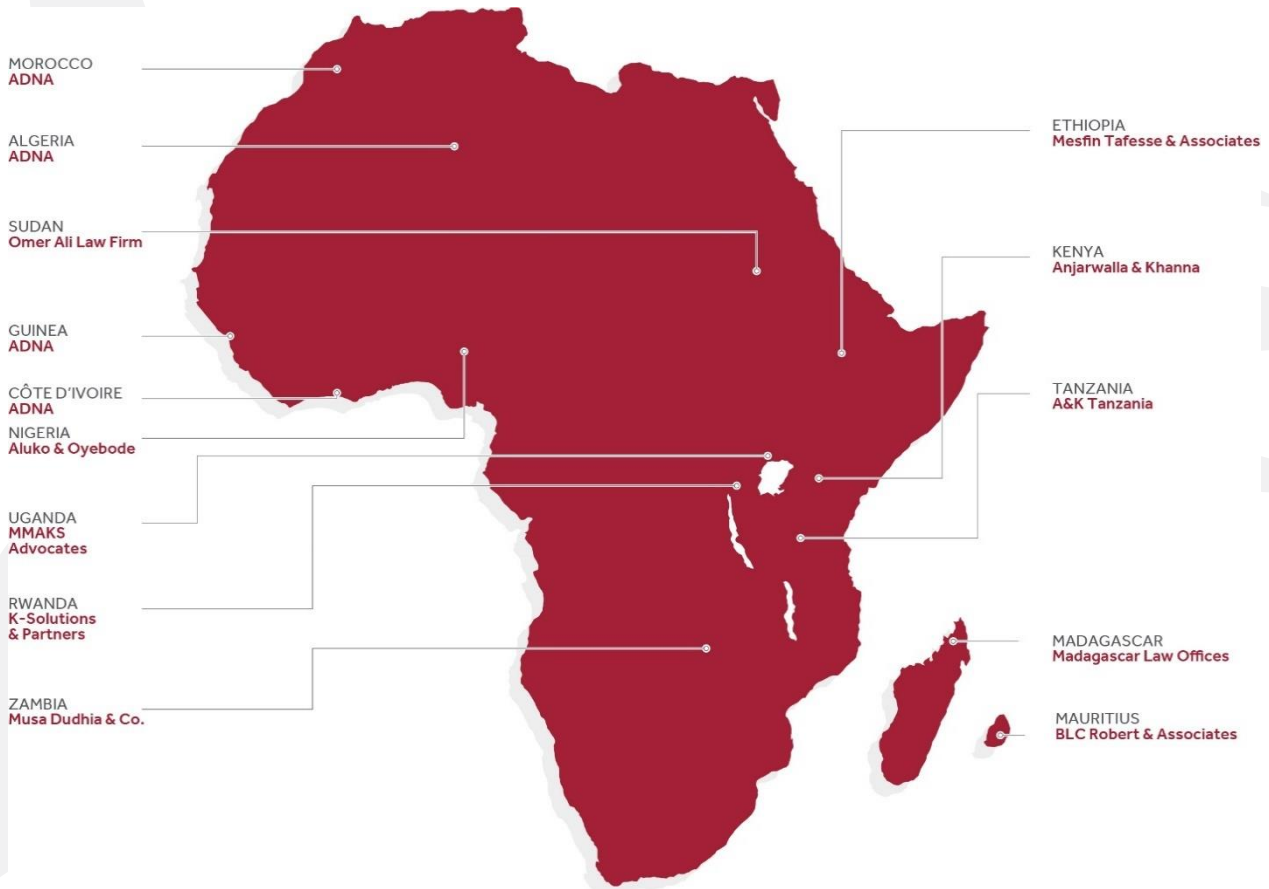
The Firm strengthens the regional offering of its four offices in Dar es Salaam, Nairobi, Mombasa and Dubai by providing its clients greater access to a broader pool of specialist teams and resources.

Our team of lawyers has been involved in a number of sophisticated transactions, across the spectrum of

legal areas, including corporate commercial, complex mergers and acquisitions, banking and project finance, infrastructure and projects, real estate, capital markets, insolvency and restructuring, mining, petroleum, energy and telecommunications.



## About ALN



ALN is an integrated alliance of the preeminent full-service corporate law firms in 14 African countries: Algeria, Côte d'Ivoire, Ethiopia, Guinea, Kenya, Madagascar, Mauritius, Morocco, Nigeria, Rwanda, Sudan, Tanzania, Uganda and Zambia. ALN also has a regional office in Dubai, UAE, which serves as a gateway to the Gulf region and beyond.

### Vision

ALN seamlessly connects the African continent. It brings its global expertise, continental reach and deep local know-how to help its clients navigate the multitude of opportunities and risks in Africa, holistically combining legal, tax, regulatory and commercial advice.

### Mission

ALN is dedicated to its clients' success. ALN achieves this by providing world class legal, tax and regulatory advice in a commercial context. ALN's lawyers are aware of the trends and events shaping the continent, deeply networked and respected in their communities as thought leaders and opinion shapers. ALN's lawyers have a Pan African mindset, are down to earth, pragmatic, responsive, innovative and relentlessly determined.







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