



Projects & Infrastructure

Power Guide:
Morocco

**ONE REGION
ONE VISION
ONE ALN**

Introduction

This Power Guide was prepared by ADNA and provides an overview of the energy sector in the Kingdom of Morocco. The aim of this guide is to provide useful information to investors and stakeholders on legal aspects of the industry, such as applicable regulatory standards.

Morocco's energy landscape is diverse, drawing from various sources to meet its electricity needs. The energy mix comprises thermal, hydraulic, and renewable sources, with a particular emphasis on solar power. With abundant sunlight resources,

Morocco has been at the forefront of harnessing solar energy, investing in large-scale solar projects to capitalize on its renewable potential.

Aligned with global efforts to combat climate change and reduce reliance on fossil fuels, Morocco set ambitious targets to enhance its renewable energy capacity. The nation aims to transition towards a more sustainable energy mix, with a goal to achieve 52% of its electricity generation from renewable sources by 2030.

Governing Law



Relevant laws, regulations, and policies:

- Dahir 1-63-226 creating ONEE (as amended)
- Law 48-15 on the regulation of the electricity sector and ANRE

- Law 13-09 relating to renewable energy (including its amendments and implementing regulations)
- Law 57-09 creating MASEN (as amended)
- Law 82-21 on self-production
- Law 47-09 on energy efficiency

Institutional Framework

Energy Regulatory Authority (ANRE)



ANRE is an independent regulatory body mandated to oversee the electricity sector in Morocco. It regulates the activities of electricity producers, distributors, and suppliers, ensuring compliance with legal and technical standards, promoting fair competition, and safeguarding consumer interests. ANRE also sets the tariffs for the use of transmission grids, and the maximum grid capacity which determines the ability to create new generation projects.

Ministry of Energy, Mines, and Sustainable Development (MEM)



The MEM is responsible for formulating and implementing energy policies, strategies, and regulations in Morocco. It oversees the overall development of the energy sector, including electricity generation, distribution, and renewable energy initiatives.

Moroccan Electricity and Water Authority (ONEE)



ONEE is the state-owned utility company responsible for electricity generation, transmission, and distribution in Morocco. It manages the country's power infrastructure, ensuring reliable electricity supply to residential, commercial, and industrial consumers. It is the sole purchaser of electricity from IPPs.

ONEE is also involved in large infrastructure projects such as desalination plants.

Moroccan Agency for Sustainable Energy (MASEN)



MASEN is a government agency tasked with promoting and developing renewable energy projects in Morocco. It plays a significant role in overseeing large-scale renewable energy projects, including procurement, implementation, and management.

Moroccan Agency for Energy Efficiency (AMEE)



AMEE is dedicated to promoting energy efficiency and conservation measures across various sectors in Morocco. It implements programs and initiatives to reduce energy consumption, enhance energy efficiency standards, and raise awareness about sustainable energy practices.

Power Purchase Agreements (PPA) between Independent Power Producers and the State Offtakers (ONEE or MASEN)

- Depending on whether a power production project is from a renewable or conventional source, IPPs will have to enter into a PPA with either MASEN or ONEE, following a public tender.
- PPAs govern the relationship between the IPP and the relevant Offtaker, in particular the rights and obligations of each party for the production, transmission, and distribution of power, as well as the power purchase conditions.
- PPAs also determine the power purchase tariffs with a Take-or-Pay structure and typically have a duration of 25-30 years. The Deemed Generated Energy Payments are paid if the grid availability falls below the guaranteed levels as specified under the PPA.
- PPAs are usually accompanied by a Government Support Letter from the MEM and the Ministry of Finance, to comfort investors regarding ONEE or MASEN's obligations (as applicable).
- Adjustments to the tariff are possible upon the occurrence of a Political Event (including a Change in Law).
- Even if the counterparty to the PPA is MASEN, the actual offtaker will be ONEE as the entity managing the transportation of power.
- It is common for ONEE and MASEN to enter into direct agreements with lenders financing IPPs.

Merchant IPPs (13-09 regime)

- As part of its policy of developing the production of renewable energy, the Kingdom of Morocco has endeavoured to promote small scale production through corporate PPAs.
- Any person can operate a renewable energy merchant power or thermic plant and sell power to industrial customers under corporate PPAs, subject to a prior declaration (if the capacity exceeds 20 KW) or authorisation (if the capacity exceeds 2 MW for power or 8 MW for thermic), and the payment of a grid fee.
- Wind projects are subject to zoning requirements and can only be established in areas designated by an order of the Ministry of Energy and Mines (MEM).
- The ability to use the national grid for transmission is subject to the limits of the maximum capacity set by ONEE and ANRE. Operators must enter into an access agreement with ONEE.
- Merchant IPPs can also export power outside of Morocco (subject to certain approvals and controls).

Local Content Requirements

- Currently, for the project company, there are no local content requirements as regards:
 - ownership of shares by foreign investors in a project company;
 - subcontracting services to a project company;
 - employment of national employees in the project company; and

- the community development carried out by the project company.
- Morocco has a strict foreign exchange regime which must be complied with by foreign investors.

Credit Enhancements and Security Arrangements

- No sovereign guarantees are provided by the Government of Morocco, but a support letter may be provided for State PPAs with MASEN or ONEE.
- ONEE and MASEN are accustomed to international lenders' requirements and direct agreements. Financing is usually addressed in detail in calls for tenders.

Governing Law and Dispute Resolution

- PPAs are governed by Moroccan law. The official languages of Morocco are Arabic and Tamazight. However, PPAs and related documentation are usually drafted in French.
- Morocco is a party to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, 1965 (ICSID Convention) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (New York Convention).
- Disputes may also be resolved through local courts or arbitration, depending on what has been agreed by the parties.
- It is usual for State PPAs to be subject to international arbitration (ICC being the most common forum).

A Snapshot of our Power Sector Experience in Francophone Africa

ADNA has extensive power experience as our key practice areas including projects, corporate and M&A, banking and finance, and disputes. ADNA has power experience in infrastructure and energy deals in Morocco, Cote d'Ivoire, Guinea, Algeria, and other

African jurisdictions. Our presence in Francophone Africa provides us with local depth combined with international insight and creative thinking. ADNA has handled some of the largest power deals in North and West Africa.

Our Experience in Morocco



Infra Invest: Advising on the acquisition of a minority stage in Project Khalladi in Morocco – 120 MW wind project under law 13-09.



Fotowatio Renewable Ventures B.V: Advising on their bid and financing for Noor PV I Program in Morocco.



Butec Group:

Advising on the acquisition of Engie Services Maroc and Cofely Tangier, the largest transaction of the 17 acquisitions of ENGIE Group in Africa operating in the fields of energy efficiency, maintenance, heating, ventilation and air conditioning, green mobility, multi-technical maintenance as well as facility management. This deal was shortlisted by Africa Awards 2022 for the M&A Deal of the year.



Butec Group: Advising on the acquisition of all the Moroccan activities of Eaux de Marseille, a subsidiary of the Veolia Group.



Nareva and Engie: Advising on in connection with the 800 MW Noor Midelt Solar Hybrid Concentrated Solar Power and PV Project (Project and Project Finance).



The Lenders (including CACIB, BNP Paribas, Attijariwafa bank, JBIC and NEXI): Advising on the extension of the coal-fired Jorf Lasfar power plant in Morocco and related port infrastructure for coal-supply.



The Lenders (including Société Générale, JBIC and the Islamic Development Bank): Advising on the construction of the coal-fired Safi power plant in Morocco and related port infrastructure for coal-supply.



UPC Renewable: Advising on various projects in Morocco in the energy sector.

Our experience in other ADNA jurisdictions

Algeria



Eni: Advising on the Algerian aspects of the multibillion acquisition of Neptune which holds significant interests in upstream petroleum activities in Algeria, including all due diligence and Algerian law regulatory aspects.

Advising on the acquisition of bp's two gas-producing concessions "in Amenas" and "in Salah" jointly operated with Sonatrach and Equinor.

Advising on the Algerian aspects of the multimillion acquisition of Neptune which holds significant interests in upstream petroleum activities in Algeria, including all due diligence and Algerian law regulatory aspects.



Eni: Advising on the acquisition of BP's two gas-producing concessions "in Amenas" and "in Salah" jointly operated with Sonatrach and Equinor. This acquisition has an important strategic value and contributes to Europe's gas needs whilst strengthening Eni's presence in Algeria.



Pertamina: Advising in connection with the conclusion of a hydrocarbons contract governed by the new hydrocarbons law for the development of an oil field in Algeria with Algerian and Spanish partners.



Occidental Petroleum (Oxy):

Advising on the Algerian aspects of the multibillion acquisition of Anadarko which holds significant interests in upstream petroleum activities in Algeria, including all due diligence and Algerian law regulatory aspects.

Advising on the Algerian aspects of the multibillion acquisition of Anadarko which holds significant interests in upstream petroleum activities in Algeria,

including all due diligence and Algerian law regulatory aspects. Our firm was particularly involved in the structuration of the deal to comply with Algerian authorities' requirements. Our firm is known for advising on post-closing matters and project aspects.

Advising in relation to negotiation of a new PSC (production sharing contract) governed by the new Algerian hydrocarbons law and advising the client on all Algerian regulatory laws aspect.

Advising in connection with a production-sharing agreement with Algeria to develop the Berkine basin.



Edison: Advising on the divestment of exploration and production activities in Algeria. We advised on an agreement to sell its stake in the North Reggane license in Algeria, completing the divestment of all Exploration and Production (E&P) activities following the company's strategic realignment towards its energy transition businesses.



Neptune Energy: Advising in relation to its project development and E&P operations in Algeria including comprehensive legal assistance with all aspects of the projects for operating the oil & gas assets, contract management and regulatory review.



ADNOC: Advising in connection with the indirect acquisition of a stake in Sorfert, an Algerian joint venture in which Sonatrach holds 49% on the share capital of Sorfert, as well as advising on all Algerian law regulatory aspects.



Air Products: Advising in relation to two gas production and delivery agreements entered into with Sonatrach the largest state-owned oil and gas company in Africa, including the design, build and operation of two new air separation plants in Algeria.

Côte d'Ivoire



Kapowership: Advising Keepership in connection with its negotiation with the Ivorian Parties for the provision of LNG and a Floating Storage Regasification Unit (FSRU) to reinforce the power capacity of Côte d'Ivoire.



EDF Côte d'Ivoire: Advising EDF Côte d'Ivoire in connection with a legal feasibility study in relation to a project to supply and install photovoltaic panels in the city with a capacity equal to or greater than 100 kW as part of a self-production scheme.



EDF:

- Advising EDF in connection with the supply of solar photovoltaic energy service to a major banking group in Côte d'Ivoire.
- Advising EDF in connection with the framework of the design, financing,



An IPP Shareholder: Advising a shareholder in an Independent Power Producer (IPP) in connection with the design, construction, operation, maintenance, and financing of four solar photovoltaic power plants with a combined installed capacity of 50 MW located in the Republic of Benin, as well

construction, and operation project, in partnership with the Ivorian company SIFCA, a biomass plant with a total capacity of 46 MW, divided into two 23 MW units, in Côte d'Ivoire.

as the design, construction, and financing of the facilities for connecting these power plants to the distribution network.



Leading Solar IPP Sponsor: Advising a leading Independent Power Producer (IPP) specialized in Solar projects in connection with its negotiations with the Government of Côte d'Ivoire for the design, financing, construction, and operation of the 50 MW solar power plant in the Northern part of Côte d'Ivoire.



TIERI: Advising shareholders and members of the management of the TIERI group (service companies operating in energy based in Côte d'Ivoire, Burkina Faso, Mali, and Niger) in connection with the total acquisition by the French group ENGIE of the companies composed TIERI group.



Investisseurs & Partenaires (I&P) And the Shareholders of Conergies Group: Advising the investment fund managed by Investisseurs & Partenaires (I & P) and the shareholders of CONERGIES GROUP in connection with the acquisition of 49% of the shareholding of CONERGIES GROUP by EDF (Electricité de France) at the same time exiting I&P from their investment.



Fenix Engie Côte d'Ivoire: Advising Fenix Engie Côte d'Ivoire (an Engie group subsidiary) in connection with several matters, including issuing a legal memorandum dealing with the compliance under Ivorian law (including banking and financial services law) of solar panels supply and financing structure, involving micro payment instalments by mobile payment.

Guinea



Rio Tinto Iron Ore Atlantic Limited and Rio Tinto London Limited: Advising in connection with the tripartite agreement relating to the co-development of the Simandou mining infrastructure (mine, rail and port) at an estimated cost of USD 15 billion.



Emirates Global Alumina: Advising on the Sangaredi bauxite project providing general advice on Guinean mining, customs and corporate law issues and advice on the start-up of phase II of the project relating to the construction of an alumina refinery.



Tebian Electric Apparatus (TBEA): Advising the lenders with the legal due diligence in relation to the Amaria Hydropower Station, a 300MW hydro power project on Konkoure river/basin in Guinea, which is sponsored by TBEA Co, Ltd.



European Investment Bank, Proparco and other development finance institutions: Advising in connection with the USD 115 million financing of the IPT Powertech Group in Lebanon, the Republic of Guinea and Nigeria.



International Finance Corporation: Advising in connection with the USD25 million financing of the Sonoco Group in the Republic of Guinea.



IFC and Proparco: Advising on the financing of the Gaselia Group's development, expansion and upgrade program in Côte d'Ivoire, Guinea, Mali and Senegal.



Agence Française de Développement (AFD): Advising in connection with the EUR 30 million facility agreement to the Republic of Guinea regarding the financing of the National Water Company (Société des Eaux de Guinée).



Agence Française de Développement (AFD): in connection with the financing (Loan and Grant), intended for the rehabilitation and extension of Conakry's electricity transport and distribution network.



OMF Fund II (Li) LP, AFC Equity Investments and Resource Capital Fund VI L.P.: Advising in connection with the USD 90 million and USD 80 million financing of the exploitation of a bauxite mine in Guinea.



Solvéo Energie: Advising on the development of a renewable energy photovoltaic project in the Republic of Guinea.

Key Contacts



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About ADNA

In June 2021, four well established African firms including Bourabiat Associés (Algeria), EMIRE Partners (Côte d'Ivoire), SD Avocats (Guinea), and BFR & Associés (Morocco), merged to create one fully integrated law firm called ADNA. ADNA is also a member of the award-winning Africa Legal Network (ALN), which provides a bridge between Anglophone and Francophone Africa. ALN has an expansive and growing coverage of jurisdictions in Africa.

ADNA is comprised of modern legal entrepreneurs that have created a strong independent and integrated law firm for Africa, spanning from North to West Africa, with a Pan African vision, wide international expertise, and an extended network.

Encompassing over 45 years of collective experience on the African continent, ADNA is eager to disrupt the status quo of the typical law firm to best serve its clients by being as ambitious as those it works with.

Helping to navigate businesses and provide bespoke legal solutions.

The firm is founded on the notion of legacy. The legacy to become an institutional law firm and to help grow and promote the next generation of African lawyers.

ADNA's experience extends beyond transactional work, we look after clients through every stage of the company's life cycle. We are at the forefront of developments in Africa and always strive to develop innovative structures to simplify the complexities inherent in deals in established and emerging markets on the continent. Our presence in Africa provides us with local depth combined with international insight and creative thinking.

We have full capabilities to get deals done and find innovative solutions on complex matters in Africa.

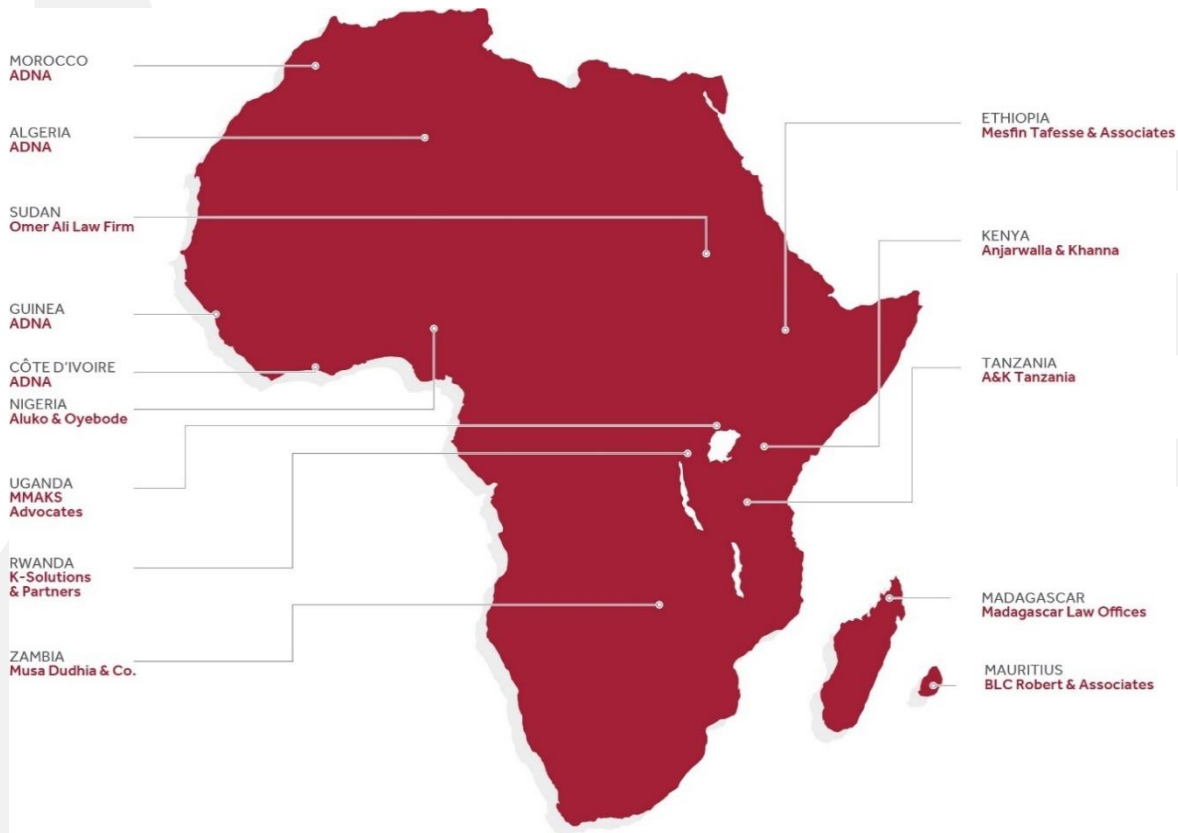
- Our presence in Africa provides us local depth combined with an international insight and a creative thinking.
- We have full capabilities to get deals done and find innovative solutions on complex matters in Africa.

We are proud to have won three awards at the IFLR Africa Awards 2024 including:

Francophone Africa Law Firm of the Year
Rising Star Law Firm
M&A Deal of the Year for the Sanlam Group - Allianz JV.



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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