

ENERGY & INFRASTRUCTURE BULLETIN

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Fundamental Reform of the Regulatory Framework for Renewable Energy in Japan

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| I. Introduction | Mori Hamada & Matsumoto |
| II. Overview of the Reforms | Energy & Infrastructure Practice Group |
| III. Market Integration and Establishment of FIP Scheme | |
| IV. New Surcharge System for Grid Development | |
| V. Mandatory External Reserves for Decommissioning Costs | |
| VI. Automatic Cancellation of FIT/FIP Approval for Prolonged Delay | |
| VII. Expected Effective Date | |
| VIII. Other Significant Structural Changes (Generator-side Wheeling Charge) | |
| IX. Conclusion | |

I. Introduction

The Act on Partial Amendment of the Electricity Business Act and Other Acts for Establishing Resilient and Sustainable Electricity Supply Systems (the “**Act**”) was enacted on June 5 and promulgated on June 12 of this year.

This bulletin mainly explains the amendment of the Renewable Energy Act, which is one of the laws amended by the Act, followed by a brief guidance on other significant changes in the regulatory framework for renewable energy in Japan.

In the following sections, the Renewable Energy Act prior to amendment by the Act is referred to as the “**Current Act**”; as amended by the Act, it is referred to as the “**Amended Act**”. Unless otherwise indicated, the referenced articles refer to the Amended Act.

II. Overview of the Reforms

The main amendments to the Current Act are:

- (1) Change of the title of the Current Act from “the Act on Special Measures Concerning the Procurement of Renewable Energy by Electricity Utilities” to “the Act on Special Measures for the Promotion of the Use of Renewable Energy”
- (2) Market integration and establishment of a FIP scheme (III. below)
- (3) New surcharge system for grid development (IV. below)
- (4) Mandatory external reserves for decommissioning costs (V. below)

ENERGY & INFRASTRUCTURE BULLETIN

- (5) Automatic cancellation of FIT/FIP approval for prolonged delay (VI. below)

III. Market Integration and Establishment of FIP Scheme

The current feed-in tariff (FIT) scheme for renewable energy has helped promote investment and encouraged new entrants into renewable energy, as power producers enjoy the benefits of predictability of return on investment and operating a power generation business without having to spend for demand forecasting. This is because power producers under the FIT scheme are protected from price fluctuation risks caused by changes in the supply and demand of electricity and the burden of imbalance risks, and are not obliged to submit power generation plans. However, the FIT scheme also affected the efficiency of the power sector because it required other power sources to adjust supply and demand in order to ensure priority access of renewable energy to the power grid, and the benefits granted to the renewable power producers left them with little incentive to increase electricity sales during peak hours.

The Amended Act implements a framework where certain types of energy from renewable resources (“**competitive power sources**”) that are expected to compete against energy from other power resources will be traded in the market. Producers of such competitive power sources will receive a certain premium (feed-in premium or FIP) above the market price. By so doing, the Amended Act provides a new incentive to encourage further investments in and enhance the growth of renewable energy sources while improving the efficiency in and reducing the cost to the power sector. It also aids the advanced and competitive renewable energy industry to reduce end-user prices. The ultimate purpose of the Amended Act is to make renewable energy one of the main power sources that are integrated into the electricity market.

1. What is the FIP scheme?

In the interim report (the “**Interim Report (Main Power Source)**”)¹ published by sub-committee on system reform for shift of renewable energy to main power source (the “**Main Power Source Subcommittee**”), the FIP scheme is described as follows:

¹ https://www.enecho.meti.go.jp/committee/council/basic_policy_subcommittee/saiene_shuryoku/pdf/report_002.pdf

ENERGY & INFRASTRUCTURE BULLETIN

“The FIP scheme is a framework that ensures investment incentives for power producers by allowing them to receive a premium based on the unit price (JPY/kwh) in addition to sales revenue from market transactions at the wholesale power exchange or through over-the-counter transactions; such premium is calculated by deducting the reference price based on the market price from the designated base price (FIP price).”

The Amended Act refers to the premium under the FIP scheme as a “supply promotion subsidy”; therefore, the FIP scheme is recognized as a framework that grants a “supply promotion subsidy” to power generators engaging in transactions in the market. Specifically, Article 2-2, Paragraph 2 of the Amended Act provides that the relevant power generators shall be entitled to receive a subsidy (hereinafter referred to as “supply promotion subsidy”) to recover necessary expenses for the supply of electricity from renewable energy over the period of such supply if the electricity is generated by using the relevant power generation facilities and supplied through market transactions.²

2. Projects covered by the FIP scheme

(1) Eligible Category

Under the Amended Act, projects subject to the FIP scheme are defined as “eligible categories” to be designated under a public notice (*kokuji*) by the minister (“**METI Minister**”) of the Ministry of Economy, Trade and Industry (“**METI**”) (Article 2-2, Paragraph 1 and Paragraph 5). The METI Minister must seek the opinions of the relevant ministers and respect the opinions of the Procurement Price Calculation Committee for designating the “eligible categories” (Paragraphs 3 and 4 of the same article).

In the Interim Report (Main Power Source), it was suggested that large-scale industrial solar power and wind power be covered by the FIP scheme as they are “expected to grow into a competitive power source” or “steadily reducing power generation costs or available as an inexpensive power source”. However, as stated above, the official decision will be made by the METI Minister based on the opinions of the Procurement Price Calculation Committee, so future

² “Market transactions” are defined under the Amended Act as transactions for the sale and purchase of electricity in the wholesale electric power market or through over-the-counter transactions with retailers or registered specified transmission and distribution companies (Article 2-2, Paragraph 1).

ENERGY & INFRASTRUCTURE BULLETIN

discussions of the Committee still need to be monitored.

It is worth noting that the METI Minister stated in the recent Diet deliberations to the effect that the power sources and sizes covered by the FIP scheme will be determined after obtaining public comments following discussions at the Procurement Price Calculation Committee based on the market environment, such as the development of each power resource as well as the growth of the aggregation business.

(2) Certification by the METI Minister

Under the Amended Act, a person eligible for the “supply promotion subsidy” is a “certified business operator” who supplies electricity from renewable energy generated by “certified power generation facilities” under “eligible categories” (Article 2-2, Paragraph 2). In other words, similar to the current FIT scheme, certification of the renewable energy power generation business plan (the “**Business Plan Certification**”) granted by the METI Minister is necessary to take part in the FIP scheme. It follows that the legal framework and practice of the current Business Plan Certification with respect to (among others) application, acquisition, amendment, and revocation (including expiration as described below) also apply to projects subject to the FIP scheme.

(3) Projects with existing METI Certification

Taking into account the Diet deliberations and discussions at the Main Power Source Subcommittee, competitive power sources, such as large-scale industrial solar power and wind power projects, that have already obtained Business Plan Certification under the current FIT scheme will remain subject to the FIT scheme as a matter of course, and will not become subject to the FIP scheme. However, as discussed below, details of the “specific procurement category” that will be subject to the FIT scheme and the transitional measures have not been clarified. Therefore, it is important to closely follow the discussions on the treatment of projects with existing METI Certification.³

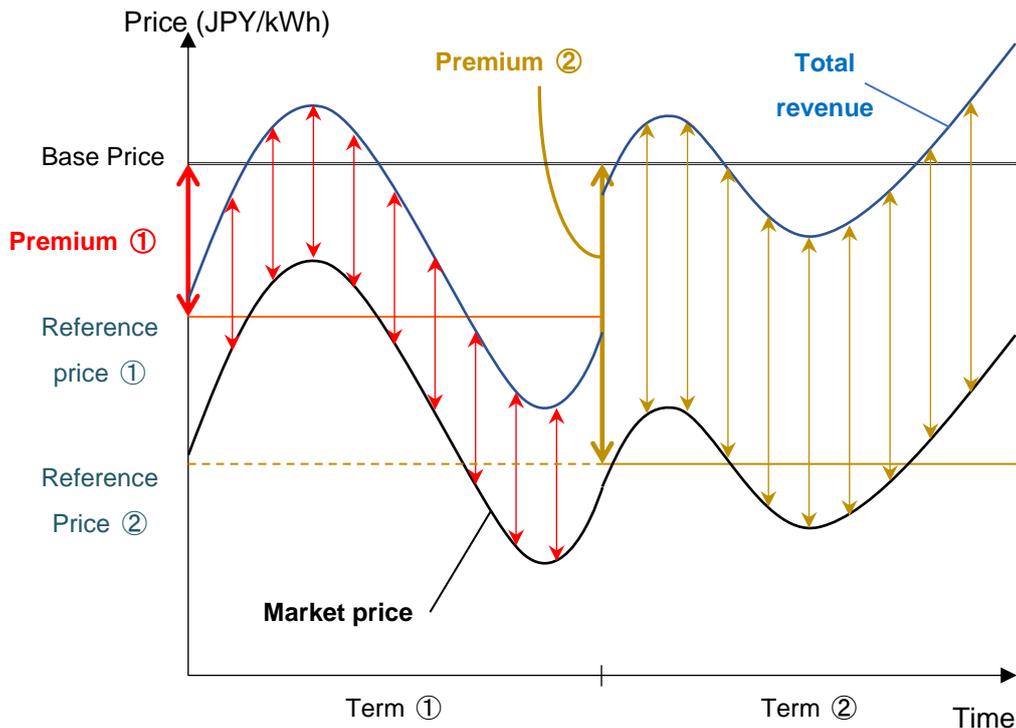
³ In the Diet deliberation, Mr. Matsuyama, a director of the Energy Efficiency and Renewable Energy Department of the Agency for Natural Resources, stated to the effect that the status of FIT-certified businesses would not change by means of a mandatory transition to the FIP scheme.

ENERGY & INFRASTRUCTURE BULLETIN

3. Supply Promotion Subsidy

Under the FIP scheme, the premium or “supply promotion subsidy” to be paid to power producers will be determined using the following structure:

Image of Premium (Supply Promotion Subsidy)



(1) Amount of Supply Promotion Subsidy

The amount of the supply promotion subsidy is calculated using the following formula in accordance with the method to be prescribed under METI ordinance (Article 2-4, Paragraph 1).

$$\text{Supply Promotion Subsidy} = \text{Unit Price} \times \text{Volume of Electricity Supplied through Market Transactions}$$

The above-mentioned “unit price” is calculated using the following formula (Paragraph 2 of the same article).

$$\text{Unit Price} = \text{Base Price} - \text{Reference Price}$$

Please note that, even if the reference price exceeds the base price, the unit price will be zero and not be negative (Article 2-4, Main paragraph of Paragraph 2).

The amount of the supply promotion subsidy and the unit price will be determined for “every period to be designated by METI

ENERGY & INFRASTRUCTURE BULLETIN

Ordinance.” As discussed below, this is probably because the reference price changes in response to fluctuations in market prices over time.

① Determination of the Base Price

The Amended Act defines “base price”⁴ as:

“the price per kilowatt hour of electricity from renewable energy under an eligible category that enables stable supply of such electricity (Article 2-3, Paragraph 1).

Similar to the procurement price under the current FIT scheme, it is generally understood that the base price is determined in advance as a fixed amount for each fiscal year, and that, once it has been secured, the base price can be changed only in exceptional cases.⁵

There are two ways to determine the base price. It can be determined by the METI Minister or through bidding. These methods are almost the same as the methods to determine the procurement price under the current FIT scheme.

If the METI Minister determines the base price, the METI Minister must seek opinions from the relevant ministers and the Procurement Price Calculation Committee, and respect the opinion of the Committee before designating the base price under a public notice (*kokuji*) (Paragraphs 1, 7 and 8 of the same article). In principle, the base price is determined once for every fiscal year, but it is possible to set a base price every 6 months or to set the base price for several fiscal years in a lump sum (Paragraphs 1 and 4 of the same article).

If the base price is determined through bidding, the bidding must be conducted by the Organisation for Cross-regional Coordination of Transmission Operators (the “**OCCTO**”). Projects subject to bidding are determined by the METI Minister based on the opinions of the Procurement Price Calculation

⁴ The “base price” corresponds to the “base price for the sales revenue determined in advance” as set out in the Interim Report (Main Power Source) referred to in Paragraph 1 above.

⁵ Please note that, as in the case of the procurement price under the current FIT scheme, the base price may be revised due to the occurrence of significant changes in economic circumstances (Article 2-3, Paragraph 10).

ENERGY & INFRASTRUCTURE BULLETIN

Committee.

② Determination of Reference Price

The Amended Act defines the “reference price”⁶ as follows:

“the price per kilowatt hour of electricity calculated in the manner prescribed by ordinance of the Ministry of Economy, Trade and Industry based on the average price per kilowatt hour of electricity under sale and purchase transactions concluded at the wholesale power exchange during the period designated by ordinance of the Ministry of Economy, Trade and Industry, taking into account, among other things, variations in the supply of electricity from renewable energy according to the season or time period for each eligible category” (Article 2-4, Paragraph 2, Item 2).

The method of determining the reference price is a defining characteristic of the FIP scheme. If the reference price fluctuates at each 30-minute interval when the spot market price is updated (“fully variable premium”), the FIP scheme operates so as to guarantee the difference of the market price and base price at any time even if the power producer sells the entire volume of electricity through the market. Its results are substantially the same as the FIT scheme’s, which guarantees the tariff rate equal to the base price. The fully variable premium would therefore ensure high stability of the revenue and give strong incentive to further investments. However, this would make it difficult to enhance the efficiency of the power sector as a whole because, for instance, power producers would be left with little incentive to increase electricity sales during peak hours.

On the other hand, if the reference price does not change for long period of time (“fixed premium”), return on investment would be less predictable. That is, it would be possible for the fixed premium to give power producers revenue that exceeds the base price when the market price is high or falls below the

⁶ The reference price corresponds to the “price based on market price” in the explanation of the system in the Interim Report (Main Power Source).

ENERGY & INFRASTRUCTURE BULLETIN

base price when the market price is low. It follows that the fixed premium would give more incentive for power producers to pay more attention to the market price and to make an effort to maximize their profit and hedge the risk.

The frequency of reference price changes and manner of determining the reference rate are left to, and will be prescribed by, the order of the METI in accordance with the Amended Act. It is expected that the details of the reference price will be crafted along the lines of the overarching principle of the Amended Act to encourage further investments in renewable energy and integrate competitive power sources into the electricity market. It is also worth noting the following proposal made in the Interim Report (Main Power Source):

“it would be appropriate to establish an intermediate framework that takes advantage of the fully variable premium as well as the fixed premium”.

(2) Grant Period

The manner for determining the period to grant the supply promotion subsidy is the same as the above-mentioned “base price”. Similar to the procurement period under the FIT scheme, the grant period shall be determined taking into consideration the standard period from the commencement of the supply of electricity to the refurbishment of a significant part of the power generation facility for the first time after the commencement of the supply (Article 2-3, Paragraph 5).

(3) Method of Grant

OCCTO is in charge of handling the distribution of the supply promotion subsidy (Article 2-2, Paragraph 3). OCCTO will determine the amount of the supply promotion subsidy to be distributed to each power producer for each period to be designated by METI ordinance and notify each power producer of such amount and other required matters (Article 2-5, Paragraph 1).

4. Overall Picture of Transaction under the Integrated Market with FIP Scheme

The following table describes the difference between selling electricity under the current FIT scheme and selling electricity under the FIP scheme integrated into the market:

ENERGY & INFRASTRUCTURE BULLETIN

	Current FIT Scheme	Market Integration + FIP Scheme
Trade of generated electricity (in kWh) (selling price)	Mandatory purchase by electric utilities (fixed price)	Wholesale electricity market, over-the-counter transactions (market price + premium)
Obligation to submit power generation plans, and cost of imbalance price	Exempted (FIT imbalance exception)	Required (*)
Environmental value of non-fossil fuel energy	Attributed to the customers and transferred to the Surcharge Adjustment Organization (an organization to collect and distribute the surcharge)	Attributable to power producers (*)

(*) Details are subject to further discussion

(1) Trade of Generated Electricity (in kWh) (Power Sale Transaction)

Under the current FIT scheme, power producers are guaranteed the ability to sell electricity from renewable energy to electric utilities who are subject to the obligation to execute power purchase agreements (*tokutei keiyaku*) (Article 16 of the current law and the Amended Act).

On the other hand, under the FIP scheme, the right to sell electricity is not guaranteed, and power producers must conduct “market transactions” as defined in Article 2-2, Paragraphs 1 and 2 of the Amended Act. In other words, the FIP scheme only guarantees the grant of premiums (supply promotion subsidies) to secure investment incentives; it is still necessary for the power producer to secure market transactions to earn a base income. Specifically, it is assumed that the power producer will either trade on the wholesale electricity market by itself or via an aggregator or conduct negotiated transactions with electric power retailers.

However, if a power producer sells generated electricity (in kWh) to a retailer, there is a risk that the power producer will temporarily lose

ENERGY & INFRASTRUCTURE BULLETIN

buyers, such as when the retailer or aggregator goes bankrupt. In this case, the Amended Act provides that, as an exception, the power producer may apply for the execution of a “temporary procurement contract” with an electric utility (Article 2-7) if the disruption in the supply of electricity through market transaction falls under such circumstances that are not attributable to that power producer as prescribed in METI ordinance. Such “temporary procurement contract” is regarded as a temporary power purchase agreement (temporary *tokutei keiyaku*), and electric utilities must execute such contract in the same manner as the power purchase agreement (*tokutei keiyaku*) (Article 16, Paragraph 2).

(2) Imbalance

Under the FIT scheme, renewable power producers are exempted from the burden of imbalance costs due to the special exception to imbalance (that is, the imbalance risks are borne by general transmission and distribution utilities or retailers in lieu of power producers).

On the other hand, in the Interim Report (Main Power Source), it is proposed that, under the policy objective to maximize the reduction of cost in the entire power sector, the special exemption from imbalance cost with respect to renewable energy power producers should be removed under the FIP scheme, to give them an incentive to control imbalances, and to treat renewable energy and non-renewable energy power producers equally by making all of them bear the burden of the imbalance.

In this regard, the Interim Report (Main Power Source) states that “the transitional measures for reducing the liability of renewable energy power producers for the imbalance should also be considered.” However, details of the specific system design and transitional measures have yet to be discussed in the Electricity and Gas Basic Policy Subcommittee and the Electricity and Gas Exchange Surveillance Committee.

(3) Environmental Value

Under the FIT scheme, the environmental value of electricity from renewable energy is recognized as belonging to all end-users who bear the surcharges, not the power producers. The Surcharge

ENERGY & INFRASTRUCTURE BULLETIN

Adjustment Organization (an organization to collect and distribute the surcharge) sells the FIT non-fossil fuel certificates to retailers and uses the revenue to reduce the cost of surcharges imposed on end-users.

On the other hand, the Interim Report (Main Power Source) proposes that “renewable power producers should themselves sell environmental values through over-the-counter trades or auctions” based on the fact that the FIP scheme aims to integrate renewable power sources into the electric power market. In addition, it is stated that “the amount of the premium should be determined by taking into account that the amount equivalent to the non-fossil fuel value will be the income of the renewable energy power producer itself.” when the detailed framework will be designed.

5. Limitation of Projects covered by the FIT Scheme

Under the Amended Act, the current FIT scheme will continue to exist independently from the FIP scheme but only in cases that fall under the “specific procurement category” (Article 3, Paragraph 1 of the Amended Act). In other words, for new projects that fall under the category of “specific procurement category”, the conventional FIT scheme can still be used.

What requirements should be satisfied for a project to fall under the “specific procurement category” is not set out in the Amended Act and will be determined by the METI Minister in a public notice (*kokuji*), considering the opinions of the Procurement Price Calculation Committee (Paragraphs 8 and 9 of the same article).

In this regard, in the Interim Report (Main Power Source), it is suggested that “for the time being, it is appropriate to maintain the basic framework of the current FIT scheme” for so-called “regional use power sources” such as power sources that can be installed flexibly close to demand areas (residential solar power, small-scale industrial solar power, etc.) and power sources that can utilize energy resources existing in the region (small-scale geothermal power, small-scale hydroelectric power, and biomass power, etc.). The requirements (regional use requirements) applicable to these “regional use power sources”, are being discussed by dividing them into self-consumption-type power sources (low-voltage industrial solar power) and regional-integrated power sources (high-

ENERGY & INFRASTRUCTURE BULLETIN

voltage industrial solar power, small-scale hydroelectric power, small-scale geothermal power generation, and biomass power generation).⁷ Of these, detailed designs of “regional use power sources” relating to low-voltage industrial solar power have already been discussed by the Procurement Price Calculation Committee in FY2020 and have been implemented under the Current Act.

IV. New Surcharge System for Grid Development

Under the Amended Act, a new system will be established to fund part of the expenses for enhancing the transmission network, such as inter-regional interconnection lines with surcharges to be collected from consumers across the nation under the Renewable Energy Act. This amendment is based on the premise that promotion of the grid formation required to develop renewable energy into a primary power source is necessary, not by the conventional “demand-driven (passive) formation” where additional inter-regional interconnection lines were developed based on specific requests from developers constructing new power plants, but by the new “supply-driven (active) formation” where additional inter-regional interconnection lines will be proactively developed by organizations such as general transmission and distribution operators and the OCCTO based on the wide-area grid development plan in light of the potential of renewable energy. Nonetheless, mainly with the inter-regional interconnection lines in mind, the purpose of the amendment is to fund part of the grid enhancement costs by introducing a new surcharge system under the Amended Act (where, consumers will bear the costs uniformly across the nation according to the amount of electricity used by them) because the benefits from the expansion of renewable energy will be brought to the entire nation, while suitable areas for renewable energy resources are not evenly distributed across the nation.

Under the Amended Act, subsidies to be granted to general transmission and distribution operators or the OCCTO for the purpose of grid enhancement are referred to as “**grid installation subsidies**,” and the

⁷ Of these, there are discussions regarding the regional use requirements for biomass power since fuel transfer over long distances is possible. According to the Interim Report (Main Power Source), it has been pointed out that “for example, limiting the biomass fuel that can be used to be produced within a certain distance from the site of a power plant may cause a conflict with the non-discrimination rules, depending on the requirements,” and that “on the other hand, members have commented that subject to non-discrimination rules, the [electricity system] resilience would be strengthened by, for example, reviewing the life cycle GHG emissions”. In addition, with respect to the scale of biomass power that will fall under the “regional use power sources”, the Committee on the Procurement Price Calculation for FY 2020 is of an opinion that it would be less than 10,000 kW to the extent of such projects that could fall under “regional use power sources” in FY2022”.

ENERGY & INFRASTRUCTURE BULLETIN

basic framework for the amount and method of granting subsidies are provided in the Act, although details have yet to be determined by METI ordinance (Article 28 to Article 30-2 of the Amended Act).

V. Mandatory External Reserves for Decommissioning Costs

Under the Amended Act, in order to secure reserves for costs necessary for dismantling, removal, and waste disposal of photovoltaic power generation facilities (“**decommissioning costs**”), external reserves for decommissioning costs will become mandatory in principle. This amendment also applies to existing photovoltaic power generation projects.

Even under the current regulations, under a non-binding provision of the guideline set by METI, power producers should reserve sufficient funds internally for decommissioning costs. However, in practice, there were many cases where sufficient reserves were not made. In light of this, the authority is considering a stronger method to secure reserves for decommissioning costs.

1. Summary of the External Reserves System

Under the Amended Act, Certified Power Producers that fall under certain types of generation facilities designated by the METI Minister must, in principle, reserve a certain amount in OCCTO for decommissioning costs (Paragraphs 1 to 3 of Article 15-6). Non-compliance is a ground for revocation of the certification (Article 15, Paragraph 4).

The Amended Act does not prescribe details on the external reserves. However, according to the interim report (the “**Interim Report (Decommissioning Cost)**”)⁸ published by working group on securing decommissioning cost of solar power generating facilities:

Item	Outline
Projects subject to mandatory reserves	All solar projects with a generation capacity of 10kW or more under the FIT scheme
Method of reserves	In principle, withholding from each payment of tariff paid to power producers during the last ten (10) years before the end of the FIT period
Amount of money to	The amount calculated by converting the decommissioning

⁸ https://www.meti.go.jp/shingikai/enecho/shoene/shinene/shin_energy/taiyoko_haikihiyo_wg/pdf/201901210_01.pdf

ENERGY & INFRASTRUCTURE BULLETIN

be withheld	costs assumed in the calculation of the tariff under FIT scheme into the amount per power generation amount (kWh) according to the facility utilization rate
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According to the Interim Report (Main Power Source) and the Amended Act, photovoltaic power generation projects under the FIP scheme will also be subject mandatory reserves.

Regarding the amount to be reserved, the Interim Report (Decommissioning Cost) recommends the following:

Certification fiscal year	Not by bidding	By bidding
Projects certified by FY2019	(A) Reserves must correspond to the decommissioning costs assumed in the calculation of the tariff under the FIT scheme (5% of capital expenditures)	(C) The amount calculated by dividing (A) by the tariff of the fiscal year of certification, multiplied by the minimum bid price
Projects certified on FY2020 or later	(B) To be determined by the Procurement Price Calculation Committee	(D) To be determined by the Procurement Price Calculation Committee

2. Internal Reserves Exception

The Amended Act contains an exception that exempts power producers meeting certain requirements from the external reserve requirement, allowing them to reserve money for decommissioning costs internally.

The Amended Act does not provide for details of the exception. However, recommendations made by the Interim Report (Decommissioning Costs) regarding the requirements therefor are as follows:

<p>The renewable energy power generation facility operator must have:</p> <ol style="list-style-type: none"> (1) Prepared and published a business plan for the implementation of a long-term, stable power generation project; and (2) Obtained a FIT certification based on the business plan submitted; and (3) Met all of the following requirements: <ol style="list-style-type: none"> (i) the facility should be for an Electricity Facility for Business Use under the Electricity Business Act based on the business
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ENERGY & INFRASTRUCTURE BULLETIN

plan submitted;

- (ii) the operator should be a Power Producer under the Electricity Business Act, or the facility is a Specified Electricity Facility for Power Generation Use under the Electricity Business Act, which is also subject to the obligations of Power Producers under the Electricity Business Act;
- (iii) the operator plans to reserve more than the amount required to be reserved for decommissioning costs under the external reserve rule, and consents to the publication of this plan;
- (iv) the operator actually reserves more than the amount required to be reserved for decommissioning costs under the external reserve rule at each time the annual reporting to METI is made, and consents to the publication of such reserve. If the reserve is used temporarily for repairs, the operator shall replenish the reserve within one year in principle;
- (v) as stated in i. or ii. below, a financial institution regularly confirms that the operator can reserve sufficient funds for the decommissioning costs, or certain financial statements audited by an accountant are disclosed.
 - i. The operator has opened (a) one or more bank accounts for the purpose of paying costs, and is obliged to strictly manage its funds pursuant to the cash waterfall and conditions under any loan agreement and (b) a bank account where the reserves for the decommissioning costs are deposited, and such account has been opened for the sole purpose of managing such reserves.
 - ii. The operator, or a corporation which is financially and organizationally bundled therewith, is a listed corporation, and an amount equivalent to the decommissioning costs is allocated as asset retirement obligations or voluntary reserves, etc. in its financial statements.
- (vi) The operator agrees to be subject to the requirement for external reserves if any of the requirements (i) to (v) above are no longer met.

The Interim Report (Decommissioning Costs) expressly stated that Paragraph (2)(v)i. above might be applied to projects using project finance.

As for Paragraph (2)(v)ii. above, it can be inferred from a footnote in the

ENERGY & INFRASTRUCTURE BULLETIN

Interim Report (Decommissioning Costs) that listed infrastructure funds could be classified as “a corporation which is financially and organizationally bundled” with an operator.

VI. Automatic cancellation of FIT/FIP approval for prolonged delay

The Amended Act introduces a new system for automatic cancellation of certifications issued to projects that remain pre-operational even after a certain long-stop date, in order to release the grid capacity that has been reserved for such projects (Article 14, Item 2). This new system is expected to be applied not only to newly certified projects, but also to existing certified renewable energy projects.

Since April 2017, various measures against delayed projects have already been taken, including cancelling certifications of projects that failed to achieve a certain level of progress by a certain time, as well as reducing the FIT period of projects to the extent that those projects failed to commence commercial operations by a certain COD deadline. Nevertheless, a large number of pre-operational projects continue to survive despite these measures, since their FIT certifications remain in effect until the FIT period actually expires. Thus, the government concluded that a simple reduction in the FIT period by setting a COD deadline is not enough to achieve the re-opening of the reserved grid capacity. The automatic cancellation system in the Amended Act was introduced against this background.

The new long-stop date for automatic cancellation will be provided in the relevant METI ordinance for each category of renewable energy source. Details are still under discussion within METI, but the long-stop date is expected to be set after a certain period has elapsed from the COD deadline. Also, METI indicated that this period should be “adequate to secure foreseeability for developers” but no detailed criteria have been published.

The introduction of the automatic cancellation system is expected to have a significant impact on non-operational projects with prolonged delay, and further developments regarding this system need to be closely monitored.

VII. Expected Effective Date

The Act will come into effect on April 1, 2022 (Special Provisions 1 of the Act).

ENERGY & INFRASTRUCTURE BULLETIN

In relation to the amendments of the FIT scheme, the base/reference prices for the FIP scheme and the procurement prices for the FIT scheme for FY2022 are expected to be determined on April 1, 2022 (Article 5). The METI Minister may set a hearing to gather the opinions of the Procurement Price Calculation Committee before the enforcement of the Act (Article 6), in order to determine which projects will be subject to the FIP scheme under certain base/reference prices, and the procurement prices for the FIT scheme. Nevertheless, as the transitional measures necessary for the enforcement of the Act are to be provided by Cabinet Order (Article 11 of the Act), we need to wait for such Cabinet Order to be published to know the overall transitional measures.

VIII. Other Significant Structural Changes (Generator-side Wheeling Charge)

METI is preparing a new mechanism under which a part of the wheeling charge currently borne by electricity retailers (and eventually, the end users) will be charged to power generators (the so-called "Generator-side Wheeling Charge"). This is expected to be introduced in 2023, and it is estimated that JPY1,800/kW per year will be charged to power generation facilities regardless of capacity factor.

In order to avoid the severe impact of the unexpected additional burden of the Generator-side Wheeling Charge on existing renewable projects, relief measures are also being discussed by the relevant council under METI. However, some members argue that such relief measures should not be provided for photovoltaic projects with high procurement prices (JPY29/kWh or above) under the FIT mechanism. This discussion was expected to be concluded by the end of FY2019; however, the discussion is continuing and whether and how much relief will be provided to existing renewable projects (not limited to photovoltaic projects with high procurement prices) has not yet been determined.

In reply to the Diet's opinion, METI Minister Kajiyama said that, "depending on the system design, the burden on the renewable energy facilities with low utilization rate may be relatively heavier than that on other facilities. For this reason, in my view, we need to consider new ways to prevent excessive burdens on existing FIT operators. It is important to thoroughly examine the ideal form of this system, starting with a concrete design of coordination measures and standards, based on various suggestions and the opinions of stakeholders."

ENERGY & INFRASTRUCTURE BULLETIN

Upon passing the Act, the Committee on Economy, Trade and Industry of the House of Representatives issued an additional resolution to the effect that “when examining the Generator-side Wheeling Charge, consideration should be given to the situation of renewable energy power generators certified under the FIT scheme, and consideration should be given to ensuring that renewable energy power generators do not become significantly disadvantaged compared to other power generators.”

IX. Conclusion

This amendment was the result of a fundamental review of the Current Act based on its supplementary provisions⁹ and is undoubtedly the largest amendment to the regulatory framework for renewable energy in Japan. As discussed above, details of various changes will be further clarified by enforcement regulations and guidelines, and therefore, it is necessary to monitor further developments. We will continue to assess and provide useful information and advice to various market participants such as developers, financial institutions, and investors involved in renewable energy.

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⁹ “The government shall make a fundamental review of the Act by March 31, 2021, by taking into consideration the circumstances in which the Act is implemented and other factors.” (Article 2, Paragraph 3 of the Supplementary Provisions of the Renewable Energy Act)

ENERGY & INFRASTRUCTURE BULLETIN

PUBLICATIONS

- Article "International Comparative Legal Guide to: Project Finance 2020 - Japan Chapter"
- Publication International Comparative Legal Guide to: Project Finance 2020 Ninth Edition
- Author Yusuke Murakami, Kei Shirakawa

NEWS

- **Top rankings received from IFLR1000's thirtieth edition**

Mori Hamada & Matsumoto has been ranked in the top-tier of recommended law firms in the areas of "Project finance" (six years in a row since 2014) and "Project development" (three years in a row since 2017), and the lawyers named below were recommended in the guide.

- Energy and infrastructure

- Takahiro Kobayashi and Takeshi Mukawa

- Project development (Tier 1)

- Takahiro Kobayashi

- Project finance (Tier 2)

- Takahiro Kobayashi and Takeshi Mukawa

- Banking (Tier 1)

- Masanori Sato, Toshifumi Ueda, Takahiro Kobayashi, Takeshi Mukawa, and Hiroki Aoyama

- Capital markets - REIT

- Taro Omoto

- Investment funds

- Ken Miura

- **High Evaluation Received From asialaw Client Service Excellence 2020**

Mori Hamada & Matsumoto has been recognized as one of "The highest rated firms to work with" in "asialaw Client Service Excellence 2020". Two lawyers in the areas of "Banking and Finance" have been recognized as "The highest rated lawyers to work with" as shown below.

The highest rated lawyers to work with:

- Banking and Finance : Naoki Ishikawa, Shigeki Okatani

ENERGY & INFRASTRUCTURE BULLETIN

- **Lawyers from Mori Hamada & Matsumoto were included in the 11th edition of The Best Lawyers™ in Japan**

Twenty lawyers in the Energy and Infrastructure Practice Group, including those named below, were selected in a variety of areas.

- Energy Law

Takahiro Kobayashi and Hiroko Yotsumoto

- Project Finance and Development Practice

Shigeki Okatani

- Asset Finance Law

Masahito Saeki and Yusuke Murakami

- Banking and Finance Law

Masanori Sato, Takahiro Kobayashi, Hiroki Aoyama, and Yusuke Suehiro

- Capital Markets Law

Yasuhiko Fujitsu and Taro Omoto

- Investment and Investment Funds

Ken Miura

- **Novel Coronavirus (COVID-19) - Links to related articles and web pages**

Please click [here](#) to find links to all major Japanese government office websites regarding measures taken in relation to COVID-19. Our Special site is [here](#).

- **Mori Hamada & Matsumoto's Response to Novel Coronavirus (COVID-19) (Last Updated: May 28)**

Please click [here](#) for our response to the global spread of COVID-19.

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