# Guatemala

| | |
|---|---|
| Population[1] | 17,357,886 |
| Area (km$^2$)[1] | 108,890 |
| GDP per capita (USD)[1] | 5,473.21 |
| TES (Mtoe)[2] | 16.13 |
| Net energy imports (Mtoe)[2] | 6.49 |
| Share of renewable sources in TES[2] | 0.64 |
| $CO_2$/TES (t$CO_2$ per TJ)[2] | 27.08 |

Data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2023[3]

| Target industry | Number of projects and deals | Project CapEx and deal value (million EUR) by source country |
|---|---|---|
| Electric power generation, transmission and distribution | 1 acquisition deal | Singapore: 1 TD deal of 445.72 mEUR |

Sources:

1. The World Bank 2021 (area) and 2022 (population and GDP per capita).
2. ©IEA (2023), World Energy Balances (https://www.iea.org/data-and-statistics). All rights reserved. Data refer to the year 2021.
3. Orbis Crossborder Investment (2023), Bureau Van Dijk. Data represents the period 1 April 2015 - 1 April 2023. For more information see Annex III of this report.

TD: Transmission and Distribution of electricity

Guatemala's overall risk level against the assessed areas is **low**.

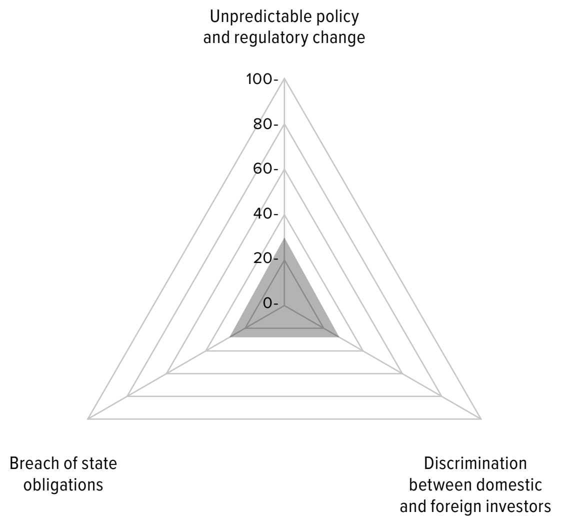
Among the three risk areas, the risks of *discrimination between foreign and domestic investors* and *breach of state obligations* are lower than the risk of *unpredictable policy and regulatory change*.

Guatemala has a good performance on all the EIRA indicators. The highest-scoring indicator is *regulatory environment and investment conditions* at 78, followed by *rule of law* at 71. It has scored 68 on the indicators *management of decision-making processes* and *foresight of policy and regulatory change*. *Framework for a sustainable energy system* is the lowest-scoring indicator at 67.

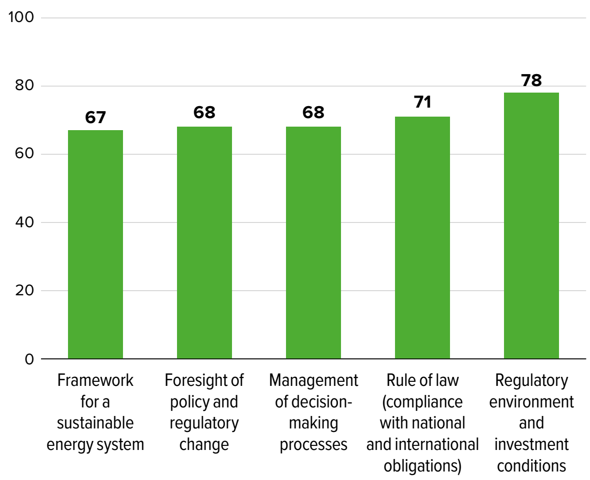
Guatemala's sub-indicator performance is good. The highest-scoring sub-indicators are *restrictions on FDI* at 85, *policy planning on clean energy transition* at 79, *regulatory independence* at 76, *institutional governance* at 75, *respect for property rights* at 74, *electricity industry market structure and competition* at 71, and *communication of vision and policies* at 70. It has a score of 68 on the sub-indicator *management and settlement of investor-state disputes*, 67 on *robustness of policy goals and commitments*, 65 on *enabling measures to support clean energy transition*, 64 on *environmental protection, human rights and gender* and 61 on *transparency and anti-corruption measures*. The lowest-scoring sub-indicator is *energy resilience*, with a score of 60.

The legal and regulatory risks associated with energy investments are low in Guatemala. At the same time, it should implement further measures to strengthen the resilience of the country's energy system.

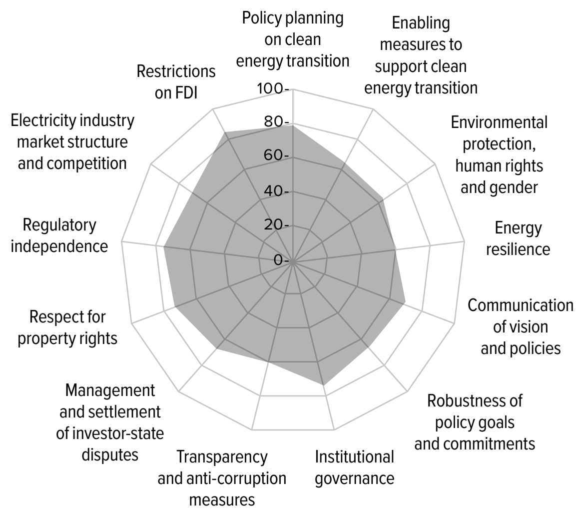
## RISK LEVEL




## INDICATOR PERFORMANCE




## SUB-INDICATOR PERFORMANCE



INDICATOR 1

SCORE
67

# Framework for a sustainable energy system

## QUICK FACTS

Guatemala ratified the Paris Agreement on 25 January 2017 and submitted its updated NDC to the UNFCCC Secretariat on 23 May 2022.

Guatemala submitted its LT-LEDS to the UNFCCC Secretariat on 6 July 2021 and its National Adaptation Plan on 21 September 2021.

In 2013, Guatemala enacted Decree No 7-2013 Climate Framework Law, which is implemented through regular National Climate Change Action Plans.

## STRENGTHS

Guatemala has set an unconditional target to reduce its total GHG emissions by 11.2% compared to 2005 in the BAU scenario and a conditional target of 22.6% by 2030. The updated NDC aims to ensure that 80% of the power generation is from clean energy sources by 2030 and promote e-mobility and biofuels to reduce emissions by 2.5 $MtCO_2e$.

Although Guatemala contributes only about 0.08% to global GHG emissions, it faces high vulnerability to climate change. For this reason, the government has developed a comprehensive policy framework to address the issue. The National Climate Change Policy promotes practices on risk prevention, vulnerability reduction, lowering national GHG emissions, improving the quality of life of inhabitants and strengthening its capacity to influence international negotiations on climate change. With support from USAID, the government has also prepared the National Strategy for Development with Low GHG Emissions, with options for reducing GHG emissions across several sectors, including energy, transport, industry, solid and liquid waste, agriculture and livestock, forestry and other land uses.

The Ministry of Environment and Natural Resources (MENR) plans to develop an incentive programme encouraging voluntary activities to reduce or absorb GHG emissions. Legal provisions in force to incentivise reduced GHG emissions include Article 21 of Decree 7-2013 Climate Change Framework Law, which allows activities and projects that generate certificates of removals or reduction of GHG emissions to access voluntary and regulated carbon markets, as well as other bilateral and multilateral compensation and payment mechanisms for environmental services.

In 2023, the government approved the National Energy Efficiency Policy 2023-2050, which aims to guide the efficient management and use of available energy resources. It is also taking policy measures to make the transport sector sustainable and start using a 10% ethanol blend in gasoline in 2024. The recently approved Decree 40-2022 Law on Incentives for Electric Mobility promotes and facilitates the sale, import, and use as means of transportation, of electric, hydrogen, and hybrid vehicles that are imported, assembled, or produced in Guatemala.

Decree 68-86 Law of the Protection and Improvement of the Environment (as amended by Decree 1-93) requires all activities that detrimentally affect the environment, landscape and cultural heritage to undergo an environmental impact assessment (EIA) study before development. Public officials who omit the EIA requirement are personally responsible for the breach of duties. Project developers who fail to conduct an EIA are subject to a fine of 5,000 to 100,000 Guatemalan quetzales (GTQ).

The National Energy Policy 2013-2027 (NEP) seeks to increase the country's forest cover by 10%. At the same time, the National Energy Plan 2017-2032 aims to ensure the reduction of 15,766,996 tons of firewood for energy use. Moreover, Guatemala's updated NDC anticipates that by 2025, at least 1,500 hectares of mangrove ecosystems will be restored and reforested, with the participation of local communities, indigenous peoples, women's groups, and youth. It also envisages that by 2025, forests cover 32% of the national territory (3,479,124 hectares), and indigenous and non-indigenous women manage at least 30% of these.

Agriculture is a priority sector for climate change mitigation and adaptation. The updated NDC envisages that by 2025, the government will implement soil conservation measures in an additional 19,500 hectares to those existing in the 2020 baseline. By the same year, the agricultural area under irrigation systems should increase by at least 4,500 hectares. Moreover, by 2025, Guatemala will present at least one project proposal addressing sustainable livestock to international funds for climate financing.

The Ministry of Energy and Mines (MEM) informs the public of the annual national energy balance and prepares monthly reports monitoring GHG emissions from the energy sector. The methodology used to calculate GHG emissions is based on that used by the Intergovernmental Panel on Climate Change (IPCC), which allows better control of compliance with actions that promote the energy sector to mitigate emissions from each sub-sector. The monthly reports show emissions from the energy sector by type of fuel used.

## AREAS FOR IMPROVEMENT

The government may consider making corporate social responsibility in climate change mitigation and adaptation a legal requirement. Public and private corporations must be obliged to develop roadmaps for achieving net-zero emissions and the mechanisms, such as carbon offset or removal, that will be utilised to achieve this target. At the same time, public and private sector banks should develop individual long-term plans to limit and eventually end financing for coal-fired power plants. They should also be legally required to progressively increase funding for clean energy technologies and report annually on this to the government.

INDICATOR 2

SCORE 68

## Foresight of policy and regulatory change

### QUICK FACTS

- The K'atun National Development Plan 2032 constitutes the country's long-term national development policy.
- The NEP 2013-2027 aims to make Guatemala more competitive and efficient and ensure the sustainable use and exploitation of resources. The National Energy Plan 2017-2032 supports the country's efforts in implementing the NEP.
- The Energy Policy 2019-2050 reaffirms the goals set in the NEP and sets new long-term objectives and sector goals for the MEM to develop.

### STRENGTHS

Guatemala has set detailed short- and long-term policy targets for the energy sector. The NEP seeks to ensure 80% renewable generation by 2027, support investment in 500 MW of renewable electricity, increase the transmission network by 1,500 km at different voltage levels, and promote energy savings of 25% in the industry and commerce sector. The contribution of renewables to the country's energy matrix is expected to be 70% in 2027 and 64% in 2032.

The National Energy Plan 2017-2032 sets targets for the priorities mentioned in the NEP. By 2032, it intends to expand the share of geothermal energy by 3.34 GWh, incorporate 128.38 MW of non-conventional resources in the energy mix, integrate 12.52 MW of self-generated power, reduce 15,766,996 tons firewood for energy use, deploy 4,447 electric vehicle units in the country's vehicle fleet and lower electricity consumption in the residential sector by 18%, equivalent to 684.16 GWh.

The National Energy Efficiency Plan 2019-2032 defines the pathway to reduce energy consumption by 69,790 TJ by 2032, compared to the BAU scenario, representing a 15.1% decrease in the country's energy consumption. At the same time, the Rural Electrification Policy 2020-2050 and its supporting Indicative Rural Electrification Plan 2020-2050 aim to achieve 93.5% electrification by 2023, 95% by 2027 and at least 99.99% electricity coverage before 2032. Notably, the MEM informed the public that as of July 2023, the country's electricity coverage reached 90%, integrating more than 51,000 new homes into the energy distribution network.

The Indicative Expansion Plan of the Generation System 2022-2052 (IEP) expects to ensure 80% renewable power generation by 2027 and contains a comparative analysis of investment costs, installed capacity, deficit and marginal costs for ten probable scenarios. In the scenarios promoting 80% renewable electricity by 2027, the $CO_2e$ emissions are expected to reduce by 44% compared to the BAU scenario. The Transmission System Expansion Plan 2022-2052 presents a long-term vision for developing the sub-sector based on the average life of critical transmission assets, consistency with strategic instruments in energy matters, expected population growth and reaching the goal of universal electrification.

The government's efforts to reach these targets are producing notable results. Between 2005 and 2020, renewable energy sources' contribution to power generation increased from 3,680 GWh (50.80% of the total generation mix) to 8,373 GWh (69.3%). From 2019 to 2022, 80.47 MW of actual installed capacity was added to the National Interconnected System (SNI), 97% of which was from renewable energy sources. Due to the seasonality of most renewable power plants, non-renewable power still contributes to meeting the base demand. However, between 2005 and 2021, the percentage of non-renewable energy sources in electricity generation decreased from 48.80% to 22.8%. In 2022, Guatemala generated about 12,025 GWh of electricity (9,416.62 GWh from renewable energy sources and 2,608.08 GWh from non-renewable sources), representing a growth of 0.83% compared to 2021. Almost 78.31% of the total power generated in 2022 was from renewable energy sources.

Generation through hydro resources has been one of the fastest growing, increasing from 2,920 GWh in 2005 to 5,816.54 GWh in 2020. According to the IEP, in 2020, GHG emissions were reduced by 51% compared to 2019 due to an increase in the share of hydroelectricity in the power generation matrix. The National Energy Plan indicates that the country is yet to utilise about 4,690 MW of hydropower, 966 MW of geothermal resources and 204.12 MW of wind power. In line with these projections, the government is scaling up the use of these resources. In 2022, hydropower accounted for 58% of the total power generated, while the share of biomass was 14%, followed by geothermal, wind and solar. Guatemala exported 974.2 GWh in 2022, of which approximately 96% went to the regional electricity market and the rest to Mexico.

In May 2023, the MEM produced the Report on Monitoring and Evaluation of the Electricity Subsector of Guatemala for 2022. The Report contains information on the national macroeconomic performance and the electricity market operations, including the installed power generation capacity, actual electricity generation, international transactions, electricity demand, energy prices and utility tariffs. Moreover, on 15 July 2023, the government released its First Semi-Annual Report for January to June 2023, which integrates the progress made by public authorities in implementing the objectives outlined in their respective work plan for 2023. Among other things, this Report provided information on the improvements made by the MEM toward rural electrification in San Mateo Ixtatán.

### AREAS FOR IMPROVEMENT

The government is encouraged to develop a policy framework creating a technically, economically and financially conducive environment for energy storage solutions, supporting greater investment in new storage technologies, and ensuring higher integration of variable renewable energy into the electrical system through battery energy storage systems.

INDICATOR 3

SCORE 68

## Management of decision-making processes

### QUICK FACTS

As per Decree 114-97 Law of the Organisation of the Executive Body, the MEM is responsible for formulating and executing policies and plans for producing, distributing, and commercialising energy and hydrocarbons, and exploiting mining resources.

The MENR develops and implements policies concerning the conservation, protection, sustainability and improvement of the environment and natural resources.

The Ministry of Economy is responsible for developing and promoting internal and external trade, consumer protection, fair market competition, national and foreign investment, and limiting the operation of monopolistic companies.

The Constitution of Guatemala and Decree 57-2008 on the Law on Access to Public Information establish and recognise the right of individuals to obtain public information from administrative authorities.

### STRENGTHS

The government of Guatemala is committed to transparency and public accountability in political and budgetary decision-making. In June 2023, the Ministry of Public Finance held the Open Budget 2024 event, during which the MEM presented the utilisation of the GTQ 97 million allocated to ongoing programmes in the energy and extractives sectors and consultations with indigenous communities on projects under the MEM's mandate. It also announced that in 2023, the number of households with electricity access increased by 1.86 percentage points.

Guatemala's economic performance has been strengthening progressively. According to the Bank of Guatemala, taking as a reference the price of the quetzal in 2013, Guatemala's estimated GDP in 2021 was GTQ 544,485 million, representing a growth of 7.5% compared to the previous year. In terms of GDP by production activity, in 2022, the electricity and water supply sector grew by 4.4% compared to 2021, with an estimated value of GTQ 15,926.29 million at 2013 prices. Notably, this sector has maintained its growth trend for the last three years.

The MEM makes weekly reports on the electricity market performance available to the public. In 2023, in line with public accountability requirements under national laws and regulations, the MEM published the Report on Transparency and Efficiency in Public Spending for the first quarter of 2023, its Annual Purchasing Plan for 2023, the Accountability Report 2023, General Standards for Centralized Budget and Financial Execution 2023, General Standards for budget execution under the MEM Resolution no. 325-2023 and the Quarterly Management and Accountability Report for the first quarter of 2023.

Through its Decision No. 532-92, the government has established the Investment Office (IO) of the Ministry of Economy as a One Stop Window for Investment to facilitate the ease of doing business in the country. All government institutions must cooperate with the IO to centralise investment-promotion efforts and inform the IO of all matters pertaining to foreign investments. The Law on Foreign Investment 1998 requires that the IO has a dedicated budget under the state's General Income and Expenditure Budget to meet its annual operating expenses. The IO may also receive donations and voluntary contributions from individuals or legal entities, national or international. It may also utilise funds generated from fees collected for the services it renders.

In June 2022, the President of the Republic inaugurated the Single Window for Investments as a virtual tool that will serve as a single point of query for enterprises that wish to establish businesses in Guatemala. The tool simplifies, harmonises and automates administrative procedures and provides potential investors with up-to-date information for procedures applicable to different regions. The single window also aims to facilitate communication between the public and private sector entities and, at the same time, serve as an inter-institutional focal point to ensure project developers comply with the necessary requirements to operate in Guatemala.

Laws and regulations are available on the websites of the relevant ministries. For instance, the MEM has published all the laws relevant to its institutional framework and management, the energy sector, the hydrocarbon sector, the mining sector, and sustainable development on its website. The National Electric Energy Commission (CNEE) has uploaded on its website all regulations issued by it, along with all relevant laws and applicable rules, the monthly rates charged by different distributors, and the calculation methodology employed for these rates.

### AREAS FOR IMPROVEMENT

The government should adopt a law enforcing beneficial ownership disclosure requirements on companies operating in the country to ensure higher transparency and accountability. This should be coupled with a publicly accessible register that provides the public with information on the ultimate beneficial ownership of companies and supporting documentation. The register should be updated periodically and upon any change.

INDICATOR 4

# Rule of law

SCORE **71**

## QUICK FACTS

- Guatemala signed the International Energy Charter political declaration on 25 November 2016.
- The Convention on the Settlement of Investment Disputes between States and Nationals of Other States entered into force for Guatemala on 20 February 2003.
- Guatemala acceded to the New York Convention on 21 March 1984.

## STRENGTHS

Guatemala grants foreign investors access to alternative dispute resolution mechanisms to resolve disputes with the state in line with international best practices. To this end, on 8 December 2022, it signed a cooperation agreement with the Permanent Court of Arbitration (PCA) to reinforce their relationship and promote the use of arbitration and other dispute settlement mechanisms for international disputes. The agreement also aims to facilitate open dialogue between the government and the PCA and strengthen Guatemala's role in the context of the Hague Convention of 1899 and the 1907 Convention for the Pacific Settlement of International Disputes.

While foreign investors have access to international arbitration, Guatemala is also committed to providing them with effective recourse through its judiciary. Domestic courts recognise and enforce foreign judgments based on reciprocity as per Articles 344 and 3454 of the Civil and Mercantile Procedural Code of Guatemala. Domestic laws require the national courts to resolve cases within specified time limits.

The Political Constitution of Guatemala safeguards the property of foreign investors against arbitrary acts of expropriation. Its Article 40 states that the state may expropriate private property only for reasons of duly proven collective utility, social benefit, or public interest. Acts of expropriation are subject to legal proceedings. The expropriated property must be evaluated by experts, taking its actual value into account. Before the expropriation is affected, compensation must be made in legal tender unless another form is agreed upon with the interested party. The domestic law shall determine the form of payment of compensation for the expropriation of idle land. In no case will the deadline to make such payment effective exceed ten years.

Article 6 of the Foreign Investment Law 1998 further establishes that the state may not directly or indirectly expropriate an investment of a foreign investor. Any such measure must, in all cases, be on a non-discriminatory basis, following due process, and with prior and effective compensation, except for cases specified in the Political Constitution where the state must provide compensation before effecting the expropriation. Article 10 of the Foreign Investment Law states that such compensation must include the value of the property and any damage, deterioration, and expenditures resulting from the expropriation, such as payment for delays. Interest shall accrue on the compensation amount from the date of expropriation or loss until the actual date of payment. The interest must be equal to the average bank lending rate of interest published by the banking system on the date before such rate is determined. If the rate is not published or there is any ambiguity in this respect, then the Office of the Bank Examiner shall issue a report on the matter, and the report's conclusions shall be final.

Guatemala has bilateral investment protection agreements with investor-state dispute settlement mechanisms, including the energy sector with 19 countries. These BITs provide for robust protection of foreign investments. For instance, Article 6 of the BIT signed between Guatemala and Türkiye (2015) requires that the compensation shall be payable in a freely convertible currency in the case of expropriation. In case the payment is delayed, it must include an applicable interest rate from the date of expropriation until the date of payment. Similar provisions are included in other BITs, such as the ones with Trinidad and Tobago (2013), Austria (2012), Israel (2006), Finland (2005), and Switzerland (2002).

Investment protection extends to intellectual property rights through the unqualified application of the MFN and NT provisions under the BITs signed with Turkey (2015), Austria (2012), Israel (2006), Finland (2005), and Switzerland (2002). At the same time, neither the domestic laws nor the international investment agreements signed by Guatemala require the mandatory transfer of technology.

## AREAS FOR IMPROVEMENT

Guatemala is looking to attract foreign investment in several sectors, including energy. As a result, it must make efforts to mitigate the risk of potential disputes between foreign investors and the State by establishing early warning and dispute prevention mechanisms to address investors' grievances in a timely and coordinated manner. As a starting point, it should consider establishing a business ombudsperson to handle the grievances of foreign investors against public authorities. It should also appoint a central authority that maintains a database of investment treaties, contracts, and special undertakings with foreign investors. This authority should maintain real-time information on the foreign investors operating in the country and historical data on investor grievances. The government can seek support in this respect by implementing the Energy Charter Secretariat-World Bank's joint project 'Enabling Foreign Direct Investment in the Renewable Energy Sector Reducing Regulatory Risks and Preventing Investor-State Conflicts', which aims to assist states in retaining and attracting much-needed investments in the country.

INDICATOR 5

SCORE 78

# Regulatory environment and investment conditions

## QUICK FACTS

- The MEM is responsible for applying the General Electricity Law 1996 and its supporting regulations.
- The General Electricity Law 1996 created the CNEE as a technical body of the MEM, with functional independence for exercising its powers.
- The Wholesale Market Administrator (AMM) is a private, non-profit entity coordinating transactions between the market participants.
- In July 1997, the governments of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama signed the Framework Treaty for the Creation of the Regional Electrical Market (MER).

## STRENGTHS

Guatemala's General Electricity Law 1996 liberalised the country's electricity market. It deregulated power generation and removed the requirement for power producers to obtain special permits for conducting activities (except for nuclear power generation projects and hydroelectric and geothermal projects exceeding 5 MW). Likewise, it liberalised power transmission and distribution activities except for companies using public installations or public land to provide transmission and distribution services. While market forces determine power generation prices, the government sets transmission tolls and distribution tariffs to avoid monopolistic practices. The General Electricity Law 1996 requires distribution companies to allow all consumers to connect to their distribution lines in exchange for toll payments, provided there is available capacity.

Currently, six generators account for the country's majority share of electricity generation. The transmission system is primarily state-owned and operated, with eight private transmission companies participating in the principal and secondary transmission systems. There are 19 distributors in Guatemala, including 16 municipal companies providing distribution services within their jurisdictions.

The wholesale electricity market is divided into two segments: the long-term market, which runs on Power Purchase Agreements (PPAs) agreed between power generators and suppliers and the spot market, which determines electricity prices by the hour. The wholesale electricity and capacity markets are open to cross-border trading. Parties that can participate in the wholesale electricity and capacity market are (1) power producers with an installed capacity of at least 10 MW, (2) distribution companies with at least 2,000 customers, (3) transmission companies with connections to power plants exceeding 10 MW capacity, (4) energy brokers, including importers and exporter, buying or selling at least 10 MW power, and (5) wholesale electricity buyers. While it is not mandatory to participate in the wholesale market, all entities functioning within the electricity sector must abide by the rules set by the AMM.

Distribution companies, wholesale buyers and brokers may buy and sell capacity only under medium- or long-term PPAs. Distribution companies can enter into PPAs only through public auctions organised by the CNEE. Any distribution company looking to enter into a PPA must commit to at least 100% of their projected capacity needs for the current year and the following year.

The General Electricity Law 1996 sets out the institutional arrangements for regulating the energy sector. It grants considerable functional and financial independence to the CNEE in performing its functions as the market regulator. It mandates the CNEE to have its own budget and funds, which it should utilise solely to fund its activities. The CNEE must meet its financial needs through the operational fees it levies based upon the monthly power sales of distribution utilities, each of which should pay to the CNEE every month a liquid sum equal to 0.3% of total electric energy distributed in the month times the kilowatt-hour price of electricity according to the Guatemala City residential rate schedule. The CNEE can spend its revenues within the limits prescribed by the General Electricity Law 1996 and the Guatemalan Constitution.

The government is making considerable efforts to ensure the connection of electricity consumers to the grid, particularly vulnerable consumers. For this purpose, the parliament enacted the Law for Strengthening the Social Contribution to the Electric Rate, which became effective in January 2023. Per this Law, the National Institute of Electrification (INDE) may offer an additional contribution to users of the social rate. The Law extends this additional contribution from January 2023 to June 2023 for users benefitting from a monthly subsidy of up to 125 kWh. According to the government, the Law will potentially benefit almost 447,544 homes, translating into 74.38% of the electricity users serviced by the three largest electricity distributors in the country.

Guatemala has an open legal and regulatory regime concerning foreign investments. According to the Bank of Guatemala, as of March 2023, the total FDI inflow into the country was USD 394.6 million, up from USD 303.9 million in March 2022. In March 2023, Mexico contributed the most to FDI inflow in Guatemala, with USD 79.6 million (20% of the total). Following Mexico was the United States with a contribution of USD 52.1 million (13.2%), and Luxembourg with a contribution of USD 51.6 million (13.1%). As of March 2023, the electricity, water and sanitation supply sector received USD 48.4 million as FDI (12.3% of the total FDI inflow), up from USD 23.1 in March 2022. In 2022, private sector initiatives accounted for 81% of power generation. Although Guatemala is already producing more than 78% of its electricity from renewables, according to the Indicative Expansion Plan of the Generation System 2022-2052, complying with the ambitious 80% renewable energy share in the generation mix by 2027 will require USD 563 million more in investment than the BAU scenario.

The Constitution of the Republic of Guatemala protects the rights of domestic and foreign investors operating in the country. In 1998, Guatemala enacted the Foreign Investment Law, which grants foreign investors the same treatment as domestic investors in undertaking economic activities within the country. The Law expressly prohibits discrimination against a foreign investor or their investment.

The Foreign Investment Law 1998 states that foreign investors may have an ownership interest in any economic activity lawfully carried out in Guatemala and may own share capital in any proportion or percentage in profit-making companies incorporated under the country's laws. Moreover, foreign investors have free access to buy and sell available foreign currency and free currency convertibility. They may transfer abroad funds in freely convertible currency related to their invested capital or resulting from the voluntary dissolution and liquidation or sale of the foreign investment, remit profits or earnings generated in Guatemala, pay and remit dividends, debts contracted abroad, and interest accrued thereon, royalties, income, and technical assistance, and make payments derived from compensation for expropriation.

Sizable investment is also needed to develop a resilient transmission and distribution infrastructure. The Transmission System Expansion Plan 2022-2052 (TSEP) presents a long-term vision for developing the sub-sector based on the average life of critical transmission assets, consistency with strategic instruments in energy matters, expected population growth and reaching the goal of 99% electrification. The TSEP aims to reinforce 69 kV transmission lines and improve the network's quality, safety and performance indices at said voltage level and in the associated distribution networks. Reinforcements are also planned in the 230 kV transmission network and the new 400 kV trunk network, passing through the country's most important generation and demand poles. It also considers networks that will improve capacity and access to the National Interconnected System and bilateral interconnections, encouraging international transactions and promoting foreign investment in the country.

The government has taken legislative and policy measures to mobilise adequate foreign investment in the energy sector. Decree 52-2003 Law on Incentives for Development of Renewable Energy Projects (RES Law) grants several incentives to renewable power producers, including exemptions from customs duties and value-added tax for imports. Exemption from charges and consular fees on importing machinery and equipment used exclusively for renewable power generation is also available. The entity importing the machinery and equipment for renewable energy projects must apply to the Superintendent of Tax Administration (SAT) to benefit from the exemption. This incentive will be valid exclusively during the pre-investment and construction periods, which shall not exceed ten years.

The RES Law also offers an exemption from the payment of income tax to renewable electricity generation projects. This exemption may only be availed by individuals and legal entities that directly develop the projects and only for the part corresponding to the renewable power aspect since the exemption does not apply to the other activities they carry out. The incentive is offered for ten years from the date the plant starts commercial operations. Besides this, mercantile and agricultural companies engaged in renewable power generation projects may also avail tax incentives, subject to certain conditions being met as stipulated in the RES Law. Moreover, renewable energy producers will be granted an emission reduction certificate, which they can utilise to enhance trade in renewable energy. The competent authority will issue the certificate after considering the quantity of emissions reduced or displaced by a specific project.

The government is taking policy and legislative measures to promote investments in electric vehicles. Decree 40-2022 Law on Incentives for Electric Mobility, enacted on 30 August 2022, aims to facilitate the sale, import, and use of vehicles powered by electricity and hydrogen, electric or hydrogen-powered motorcycles, hybrid vehicles, and electric transport systems such as cable car, funicular, electric train, light rail, tram, or trolleybus for all uses. The Decree contemplates VAT exemption on imports and first sale, and exemptions on the Specific Tax on First Registration of Motor Vehicles (IPRIMA) and the Land, Maritime and Air motor Vehicles Tax. Income Tax exemption is available for the assembly and/or production of electric vehicles, hybrid vehicles, electric motorcycles, hydrogen-powered vehicles, and electric transportation systems. The exemptions are granted for ten years from their enforcement date and according to the specific terms for each case. In November 2022, the MEM published Governmental Agreement No. 295-2022 to issue the Regulation of the Law of Incentives for Electric Mobility, which sets out the necessary procedures for applying Decree 40-2022.

On 27 September 2022, Decree 46-2022 Law for Promotion of Investment of Foreign Capital came into force. The Law grants special treatment to investors, individuals, and legal entities with foreign capital that will make new investments in the country. However, the mining sector is not eligible for these benefits. To avail of the benefits of Decree 46-2022, an investor must obtain an authorisation from the Ministry of Economy by submitting information on the origin of the capital invested, the investment project's profile, implementation timeline and potential job creation. Based on this information the Ministry of Economy will determine the duration of the special treatment, which can range from three to ten years. If the application is approved, the foreign entity can enjoy preferential tax treatment for the duration of the benefit, even if there are any changes to domestic taxation laws affecting such treatment. The Ministry of Economy and the SAT will ensure that any entity availing benefits under Decree 46-2022 complies with all its obligations related to the project development and presents quarterly progress reports for review.

## AREAS FOR IMPROVEMENT

The government may consider increasing the financial and managerial independence of the CNEE. For this purpose, it may propose amendments to the General Electricity Law 1996, which currently stipulates that the term of office of the CNEE members shall be five years but does not restrict its renewal to one term. It may also include an explicit requirement on the CNEE members not to take positions in the regulated industry for at least two years after finishing their term to remove any potential conflict of interest.