

JUNE 2021

# RENEWABLE ENERGY LEGAL UPDATE



## AT A GLANCE

The energy market of Vietnam is still mostly State-dominated, with Electricity Vietnam (*EVN*) through its subsidiaries having a monopoly position over the transmission and distribution of electricity in Vietnam. Having said that the Vietnam Government also considers allowing the private sector to build the transmission infrastructure and then transfer the same to EVN for operation and a pilot program for direct power purchase agreements (*DPPA*) between power generation companies (*GENCOs*) and large-scale end consumers.

The Electricity Law of Vietnam requires national power development plans to be promulgated for ten year periods with a vision for 30 to 50 years. The national power development master plan (*PDMP*) VII for the period from 2011 to 2020 with a vision to the year 2030 was issued in 2011 and revised in 2016 expired pending the issuance of PDMP VIII for the period from 2021 to 2030 with a vision to the year 2045, which is currently still in draft form (*Draft PDMP VIII*).

Given that most large hydropower and coal-fired power plant projects have been developed and are contributing to environmental concerns and the relatively slow development of the LNG-to-power projects, renewable energy especially wind and solar power is generally seen as a viable alternative to meet Vietnam's future power. According to the WWF – Vietnam and Vietnam Sustainable Energy Alliance, 100 per cent of Vietnam's power can be generated by renewable energy technologies by 2050.

Since early 2020, the Vietnam Government has enhanced the regulatory framework including clarifying the investment procedures, introducing more incentives and resolving some bankability issues for the development of renewable energy projects.

This Renewable Energy Legal Update (*the Legal Update*) aims to provide key updates on the regulatory framework for the development of wind and solar power projects in Vietnam.

### Highlights

- 1 June 2020: Commencement of construction of Phu My Solar Power Plant, the largest solar power plant (330MW) in Binh Dinh province.
- 22 July 2020: Enterprize Energy signed a Memorandum of Understanding to develop the 3,400MW offshore Thang Long Wind Power Project.
- 22 July 2020: Copenhagen Infrastructure Partners, Asiapetrom Novasia Energy, and the People's Committee of Binh Thuan province signed a Memorandum of Understanding to develop a 3.5GW offshore wind power project in Binh Thuan province.
- 11 September 2020: PNE was conducting a survey with an aim to invest US\$1.5 billion into an offshore wind farm in Binh Dinh province.
- 2 October 2020: Queen Capital Finance, Lee&Lee, and Thien Phu signed a Memorandum of Understanding to develop a US\$1.05 billion wind project (560MW) in Ben Tre province.

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# 1 MARKET OVERVIEW

## 1.1 Vietnam Competitive Generation Market

The Government has put forward a roadmap to restructure the power market which has been historically State-dominated and establish a competitive market-driven environment, which comprises three phases:

<b>Phase 1</b> <b>2005-2014</b>	<b>Competitive electricity generation market where multiple power generators compete to sell electricity to a single buyer, which on-sells to distribution companies</b>  According to the Vietnam government authorities, a competitive power generation market has functioned since 2013. This allows EVN to purchase power from power plants participating directly in the competitive power generation market.
<b>Phase 2</b> <b>2015-2022</b>	<b>Competitive electricity wholesale market to involve multiple generators selling power to multiple wholesale purchasers (i.e. distribution companies and large off-takers)</b>  In January 2019, the competitive wholesale market officially commenced commercial operations under Circular 45/2018/TT-BCT. <sup>1</sup> Circular 45 permits, at an early stage of the competitive wholesale market, five subsidiaries of EVN (i.e. Northern Power Corporation, Southern Power Corporation, Central Power Corporation, Power Corporation Hanoi and Power Corporation Ho Chi Minh City), to purchase electricity in addition to EVN, provided that the sellers to the competitive wholesale market offer a competitive price, subject to their production costs and the offer ceiling price.
<b>Phase 3</b> <b>after 2022</b>	<b>Permission would be granted for a competitive electricity retail market with up to 30 per cent private sector participation in each distribution company</b>  On 7 August 2012, the MOIT issued Decision No. 2093/QĐ-BCT approving the project of designing a competitive electricity retail market. Accordingly, power consumers will be allowed to purchase power in the spot market in the period from 2022 to 2024. After 2024, power consumers would be allowed to select their electricity retailer.

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<sup>1</sup> Circular No. 45/2018/TT-BCT dated 15 November 2018 of the MOIT on the operation of the competitive electricity wholesale market.

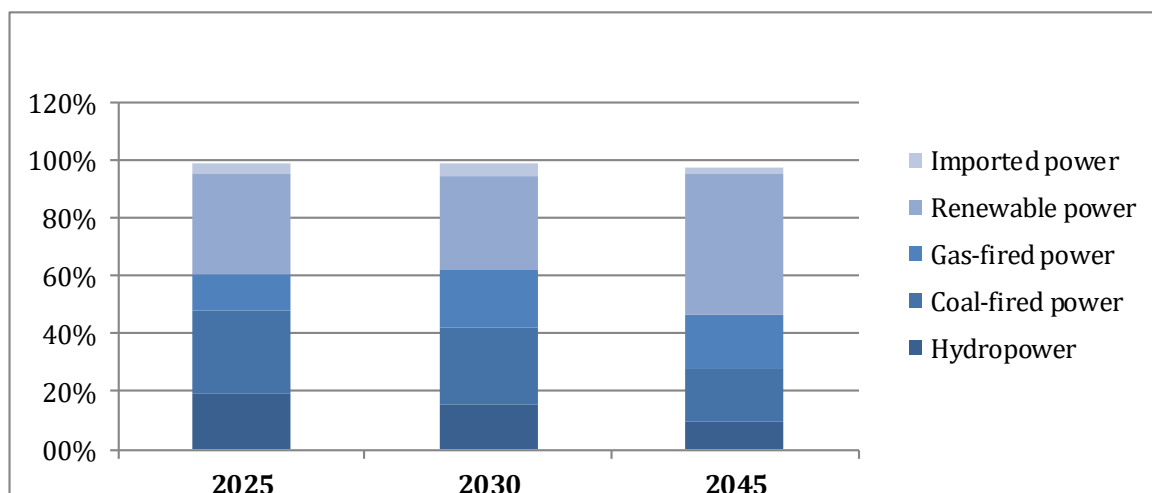
## 1.2 National Power Development Master Plan

On 9 February 2021, the MOIT released the Draft PDMP VIII to collect opinions from other relevant Ministries and authorities before submitting it to the Prime Minister for approval. Accordingly, the Government sets out its development plan for the period from 2021 to 2030 with a focus on the development of renewable energy sources (e.g. wind, solar, biomass, waste-to-power). In particular, the power generated from renewable energy would achieve 32% and 43% of the total generated power in 2030 and 2045 respectively.

The following chart sets out the targeted productivity of wind and solar power generation:

	2025	2030	2045
<b>Wind</b>	11,320 – 18,480 MW	18,010 – 23,080MW	60,610 – 76,680MW
<b>Offshore wind</b>		3,000 – 5,000MW	21,000 – 36,000MW
<b>All types of wind energy</b>	7.9%	8.1%	19.2%
<b>Solar</b>	17,240MW	18,140MW	40,090MW
<b>All types of solar energy</b>	7.3%	5.3%	8.9%

The following chart describes the structure of power generation sources:



A list of solar and wind energy development projects that have been proposed for inclusion into the Draft PDMP VIII is provided in Annexes 1 and 2 of this Legal Update.

## 2 REGULATORY FRAMEWORK

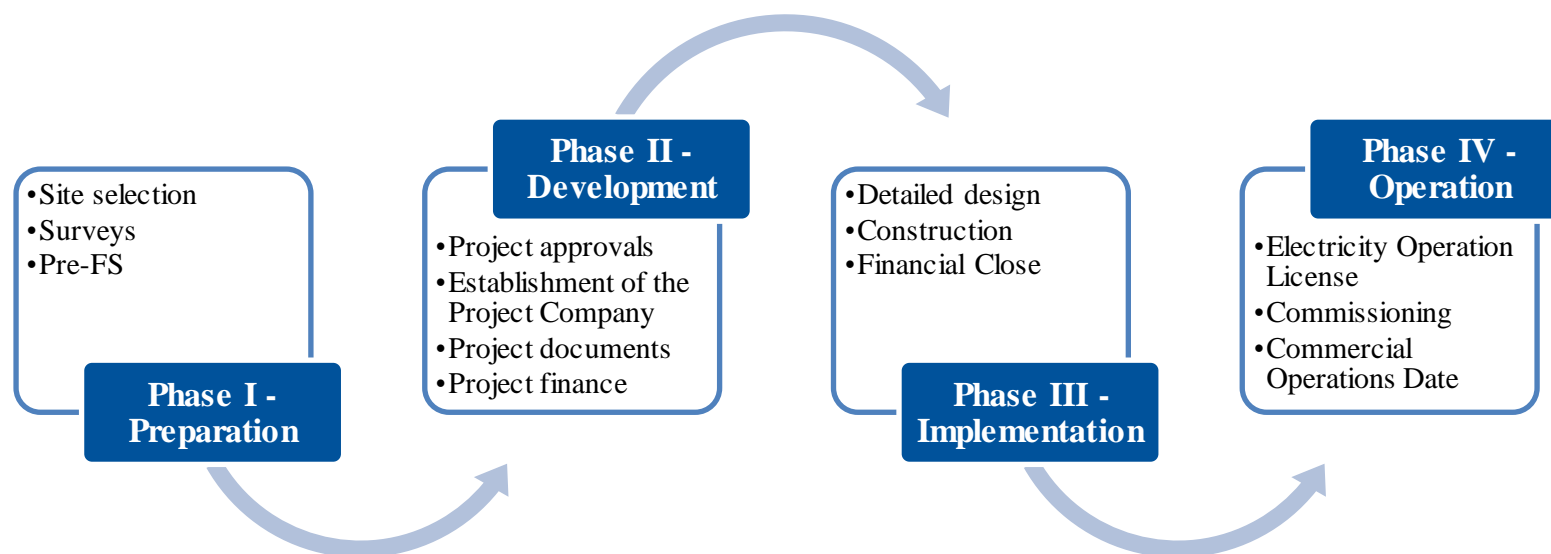
### 2.1 Overview of the Current Regulatory Framework

Unlike other types of power development projects (e.g. coal-fired thermal power, gas-fired power), the current regulatory framework for the development of solar and wind power projects is relatively comprehensive.

Investors may develop a renewable power project on either a public-private partnership (*PPP*) basis<sup>2</sup> or a non-PPP basis. The investment procedures of power projects on a PPP basis are primarily governed by the Law on Public-Private Partnership Investment, which came into effect on 1 January 2021. Whilst non-PPP power projects will be subject to the investment procedures set out under the Law on Investment which also took effect on 1 January 2020. The investment procedures of PPP projects are distinguished from non-PPP projects in terms of the procedures to select investors for PPP projects and the entry into PPP project contracts.

### 2.2 Overview of Project Development Process

The development of a renewable energy project is generally structured into four phases according to the following chart:



<sup>2</sup> In order to develop a renewable power generation project on a PPP basis, the total investment capital shall be at least VND500 billion (approx. US\$21.73 million).

## 2.3 Investment Procedures

### (a) Investment Incentives and Key Approvals

	PPP projects	Non-PPP projects
<b>Foreign ownership limitation</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>Investment incentives</b>	<p>In addition to the investment incentives as applicable for non-PPP projects, PPP investors are entitled to the following incentives:</p> <ul style="list-style-type: none"> <li>• A guarantee for the conversion of not more than 30% of the net revenue in Vietnam Dong (i.e. after deducting VND operational costs) into foreign currency with respect to significant PPP projects.<sup>3</sup></li> <li>• A risk sharing mechanism (50:50) with the State under pre-agreed circumstances.<sup>4</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Corporate income tax at 10% for 15 years.</li> <li>• Possible tax exemption of up to 4 years starting from the first profitable year.</li> <li>• Possible tax reduction of 50% for up to 9 years after the end of the exemption period.</li> <li>• Land rent exemption (if payable) for 3 years.</li> <li>• Import duty exemption on goods imported in order to form the fixed assets of the project.</li> </ul>

<sup>3</sup> "Significant PPP projects" means projects of which the Investment Policy Decisions are approved by the National Assembly and the Prime Minister.

<sup>4</sup> When the actual revenue of a PPP project reaches more than 125% of the base case revenue as set out in the PPP project contract, the PPP investor and project company will share with the State half of the revenue exceeding the 125% threshold; when the actual revenue of a PPP project falls below 75% of the base case revenue, the State shall make up half of the revenue shortfall below the 75% threshold in favour of the PPP project company or investor.

<b>Key Project Approvals</b>	<ul style="list-style-type: none"> <li>• Inclusion into the PDMP</li> <li>• Investment Policy Decision</li> <li>• Investment Registration Certificate (for non-PPP projects) or PPP Project Approval (for PPP projects)</li> <li>• Enterprise Registration Certificate</li> <li>• Land-related and/or marine-related approvals (e.g. land lease decision, land lease agreement, land use right certificates, marine space assignment decision)</li> <li>• Construction-related approvals (e.g. technical design approval, construction permit, fire-fighting and prevention design approval)</li> <li>• Environmental approval (e.g. environmental protection plan, environmental impact assessment report)</li> <li>• Electricity Operation License</li> <li>• Confirmation of Commercial Operations Date</li> </ul>	
<b>Key project contracts</b>	<ul style="list-style-type: none"> <li>• PPP Contract</li> <li>• Land lease agreement</li> <li>• PPA</li> <li>• Third party guarantee<sup>5</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Land lease agreement</li> <li>• PPA</li> </ul>

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<sup>5</sup> Government Guarantee and Undertaking is not explicitly provided under the Law on Public-Private Partnership Investment.



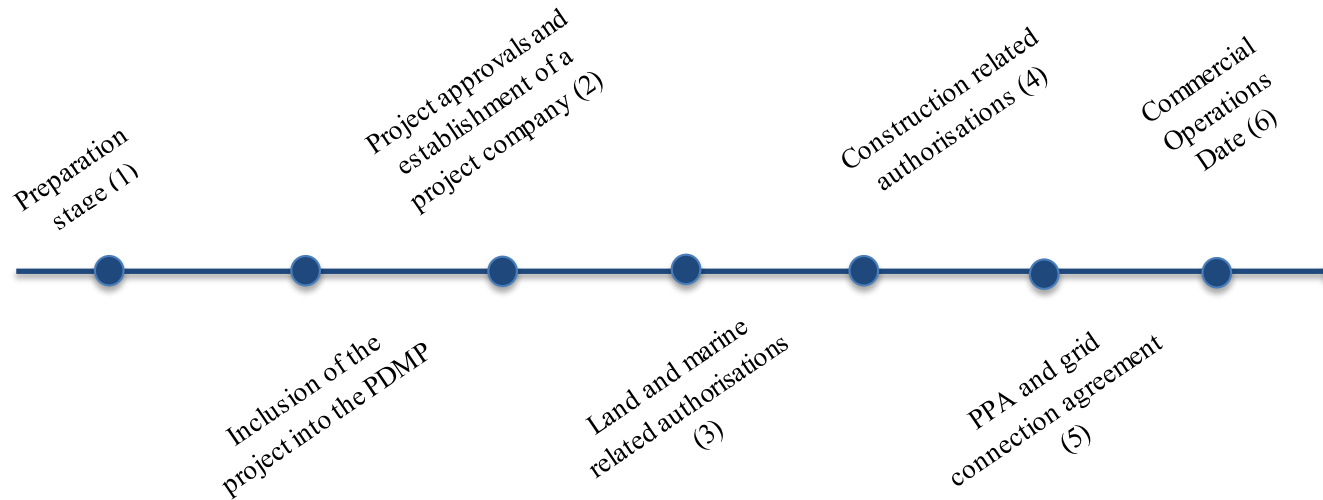
**(b) Land and marine space related procedures**

With respect to Phase 2 – Development, investors of renewable power projects would be required to carry out a number of procedural steps and obtain certain authorisations for the acquisition of land use rights and assignment of marine space, in case of offshore wind projects. The key procedural steps and authorisations are outlined below:

	<b>Land</b>	<b>Marine space</b>
<b>Authorities</b>	<p>With respect to the land compensation and clearance procedures, investors will be required to work with the following authorities:</p> <ul style="list-style-type: none"> <li>(a) The People's Council at the ward and district levels;</li> <li>(b) The People's Committee at the ward and district levels;</li> <li>(c) The Department of Natural Resources at provincial level.</li> </ul>	<ul style="list-style-type: none"> <li>(a) The Prime Minister, if the project is subject to approval by the National Assembly or the Government, except for the cases of submergence and aquaculture;</li> <li>(b) The Ministry of Natural Resources and Environment, if the project: <ul style="list-style-type: none"> <li>• is subject to approval by the Prime Minister; and</li> <li>• is located outside the 6-nautical mile sea region; and</li> <li>• is located in an inter-regional sea area; and</li> <li>• is invested by a foreign investor or economic organisation having foreign capital to implement marine projects;</li> </ul> </li> <li>(c) The provincial People's Committee, if the project is located within the 6-nautical mile sea region;</li> <li>(d) The district People's Committee, if the project: <ul style="list-style-type: none"> <li>• is implemented by Vietnamese individuals for aquaculture; and</li> <li>• is located within 3-nautical mile sea region; and</li> <li>• is not more than 1 hectare.</li> </ul> </li> </ul>
<b>Lease term</b>	<ul style="list-style-type: none"> <li>• Maximum 70 years;</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum 30 years;</li> </ul>

	<b>Land</b>	<b>Marine space</b>
	<ul style="list-style-type: none"> <li>Depending on the term of the investment projects.</li> </ul>	<ul style="list-style-type: none"> <li>Extendable but not exceeding 20 years.</li> </ul>
<b>Restrictions</b>	Transferable subject to conditions.	Marine space use rights may not be transferred to any third party, except for certain specified cases with respect to individuals/organisations being assigned marine space for aquaculture.
<b>Key authorisations</b>	<ul style="list-style-type: none"> <li>(a) Decision on land recovery</li> <li>(b) Approval of compensation plan</li> <li>(c) Decision on land lease</li> <li>(d) Land Lease Agreement</li> <li>(e) Land Use Right Certificate</li> </ul>	Decision on marine space assignment.

(c) **Procedural steps for non-PPP projects**



(1) The investor is required to prepare a wind measurement survey for a minimum of 12 consecutive months, a feasibility study and an environmental impact assessment report as part of the application dossier for the inclusion of the project into the PDMP.

(2) Subsequent to obtaining the Investment Policy Decision and the Investment Registration Certificate, the investor may proceed with an application for the Enterprise Registration Certificate to establish the project company.

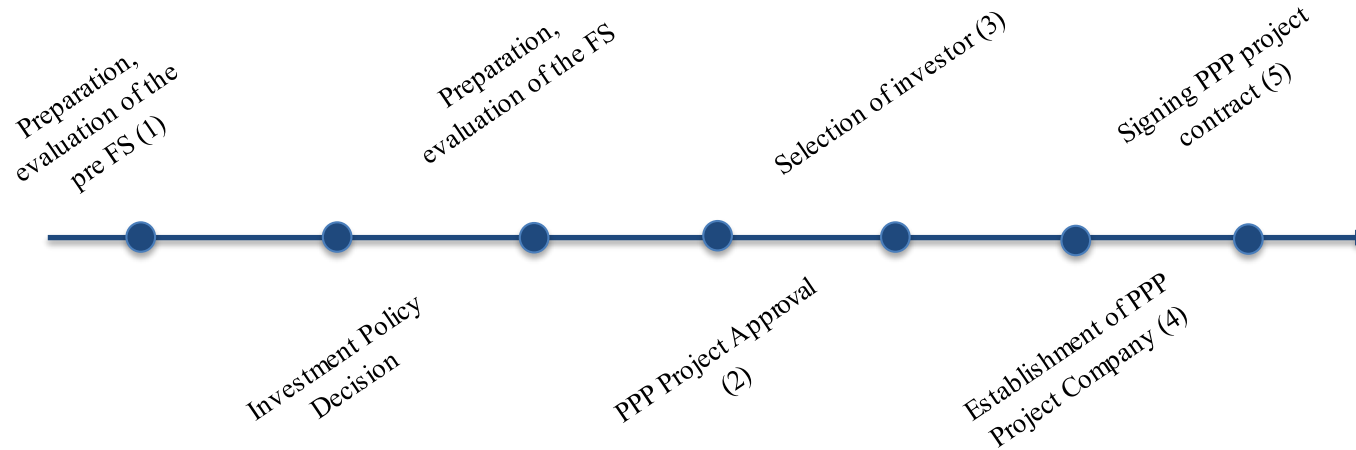
(3) The project company would then proceed with the conversion of permitted land use, land clearance, recovery and reallocation procedures; and then obtain the land lease decision, land lease agreement, land use right certificate and marine space assignment decision.

(4) Before commencing construction, the project company must obtain fire prevention and fire-fighting approvals, estimated construction budget approval, technical approval and a construction permit or construction permit exemption (if applicable).

(5) The project company will prepare a draft power purchase agreement and grid connection agreement with interconnection plan, together with specified technical information and data.

(6) The project company will obtain an Electricity Operating License and a confirmation of the Commercial Operations Date.

**(d) Procedural steps for PPP projects**



- (1) The pre-feasibility study is one of the key documents in the application dossier to be submitted when applying for the Investment Policy Decision.
- (2) PPP Project Approval is issued by:
- (i) the Prime Minister, with respect to the projects under their authority of which the Investment Policy Decisions are approved by the National Assembly;
  - (ii) the relevant Minister, with respect to projects under their authority of which the Investment Policy Decisions are approved by the Prime Minister or that Minister;
  - (iii) the provincial People's Committee with respect to projects under its authority of which the Investment Policy Decisions are issued by the Prime Minister or the People's Council.
- (3) The procedures to select an investor for a PPP project comprise:
- (i) Selection of short-listed investors (if applicable);
  - (ii) Evaluation of tendering documents;
  - (iii) Appraisal and announcement of results;
  - (iv) Negotiation, finalisation and signing of the PPP project contract.
- (4) After the investor has been selected, the investor will incorporate a PPP project company by applying for an Enterprise Registration Certificate at the provincial Department of Planning and Investment.
- (5) The PPP project company shall enter into the PPP project contract with the authorised State body.
- Other procedures as specified in steps (4) to (6) of non-PPP projects.

### **3 FEED-IN TARIFF RATES**

#### **3.1 Wind FITs**

According to Decision No. 37/2011/QD-TTg as amended by Decision No. 39/2018/QD-TTg,<sup>6</sup> wind power projects which are completed and connected to the grid before 1 November 2021 are entitled to the following FIT rates for a period of 20 years as from the COD:

- (a) Onshore wind power projects: 8.5 UScents/kWh
- (b) Offshore wind power projects: 9.8 UScents/kWh

#### **3.2 Solar FITs**

On 6 April 2020, the Prime Minister issued Decision No. 13/2020/QD-TTg regulating the FIT rates for solar power projects.<sup>7</sup> However, the FIT rates under this Decision only apply to projects that have been issued with an Investment Policy Decision before 23 November 2019 and reached COD (wholly or partially) between 1 July 2019 and 31 December 2020.

Solar power projects that do not satisfy the abovementioned conditions will be subject to the FIT bidding mechanism.

With particular respect to rooftop solar power projects, the EREA has prepared a draft decision regulating the FIT rates for rooftop solar projects that reached COD from 1 January 2021. Accordingly, the FIT rate applicable to rooftop solar projects will significantly reduce from 8.38 UScents/kWh to approximately in the range between 5.2 and 5.8 UScents/kWh depending on the installed capacity of each project.

#### **3.3 FIT Bidding Mechanism**

On 19 March 2020, the MOIT submitted Proposal No. 1968 to the Prime Minister on the proposed FIT bidding mechanisms for solar power projects, which at the date of this Legal Update has not been approved by the Prime Minister. Specifically:

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<sup>6</sup> Decision No. 37/2011/QD-TTg of the Prime Minister dated 29 June 2011 on the mechanism for encouragement of the development of wind power projects in Vietnam as amended and supplemented by Decision No. 39/2018/QD-TTg of the Prime Minister dated 10 September 2018 amending and supplementing some of the articles of Decision 37/2011/QD-TTg.

<sup>7</sup> According to Decision No. 13/2020/QD-TTg, floating solar power projects enjoy the FIT rate of 7.69 UScents/kWh; ground-mounted solar power projects enjoy the FIT rate of 7.09 UScents/kWh; and rooftop solar power projects enjoy the FIT rate of 8.38 UScents/kWh. With respect to Ninh Thuan province, solar power projects will enjoy a FIT rate of 9.35 US cents/kWh provided that such projects have been included in a power development master plan, reached COD prior to 1 January 2021 and had accumulated capacity not exceeding 2,000MW.

<p><b>Option 1</b></p>	<p><b>Bidding by projects</b></p> <ul style="list-style-type: none"> <li>• Applicable for the period until June 2021;</li> <li>• Applicable to projects which are (i) allowed to be included in the master power development plan; and (ii) not subject to fixed FIT (MOIT has also proposed a list of 21 projects to be subject to Option 1);</li> <li>• MOIT will host the bidding process;</li> <li>• Proposed projects which satisfy technical requirements and have competitive bidding FITs (FITs must be lower than the prescribed ceiling price), will be awarded;</li> <li>• The process will be conducted until the total capacity of the awarded projects reaches 1,000 MW.</li> </ul>
<p><b>Option 2</b></p>	<p><b>Bidding by substations</b></p> <ul style="list-style-type: none"> <li>• Pilot program in 2020 and 2021, official program to commence as from July 2021;</li> <li>• Applicable to projects with 10MW to 100 MW in capacity;</li> <li>• Investors will propose projects with and connection method to a substation (the list of substations to be provided by the MOIT);</li> <li>• Bidding will be hosted in separate rounds, each round will have a targeted capacity in MW;</li> <li>• Proposed projects which satisfy technical requirements and have competitive bidding FITs will be selected. A bidding round will be closed when the total capacity of the selected projects reaches the targeted capacity;</li> <li>• In this mechanism, investors will have to arrange the project location and connection infrastructure themselves.</li> </ul>
<p><b>Option 3</b></p>	<p><b>Bidding by investors</b></p> <ul style="list-style-type: none"> <li>• Pilot program in 2020 and 2021, official program to commence as from July 2021;</li> <li>• Applicable to projects with over 100 MW in capacity;</li> <li>• The authorities will host the bidding for a specific project in order for investors to join;</li> <li>• In this mechanism, the provincial People’s Committee and EVN will have to prepare project location and connection infrastructure for the investors.</li> </ul>

## 4 POWER PURCHASE AGREEMENTS

### 4.1 Model PPAs

The MOIT provides model PPAs for wind power projects, grid connected solar power projects and rooftop solar power projects to be entered into with EVN or the regional power corporations as the subsidiaries of EVN and power generation companies (collectively, *the Model PPAs*). The Model PPAs have a term of 20 years as from the COD of the renewable power generation project.

The Model PPAs have achieved some positive developments, for example:

- (a) Enhanced clarity of the provisions on force majeure events and consequences of force majeure events;
- (b) Possible exceptions to power seller's events of default in case of its failure to achieve the proposed COD;
- (c) Elimination of the previous limits on the liability of the buyer to compensate in case of termination.

### 4.2 Bankability issues

There are still a number of bankability issues from an international project finance perspective.

<b>Standard forms</b>	<b>Inadequate seller protection mechanism</b>
<p>The basic contents of the Model PPAs may not be varied but the parties are allowed to clarify the obligations and rights of the parties by inserting additional terms into the Model PPA provided that they are not inconsistent with the basic terms of the Model PPA. Nonetheless, in practice, EVN and its subsidiaries are reluctant to negotiate additional terms to extend their obligations or rights of the power generation companies.</p>	<p>There is no protection mechanism under the Model PPAs in the event of a change in law. In addition, the list of force majeure events is not extensive and it is unclear as to whether or not it is open for the parties to insert additional force majeure events. The seller is likely to bear more risks from the short list than the purchaser as the purchaser has a termination right in case the COD is not reached for any reason other than force majeure.</p> <p>The Model PPAs shift the risk of certain disruptions from EVN to the power sellers, such as in the case of grid system issues which are outside of the seller's control.</p>

### **Purchaser-friendly terms**

From a commercial perspective, the Model PPAs contain more terms favorable to the power purchaser than the power seller. For example, the exchange rate on the invoice date shall apply with a payment term of 25 business days as from the receipt of a valid invoice.

There are certain cases where the power purchaser is excused from the off-take obligation.

The Model PPAs also provides no take-or-pay obligation to a power purchaser in the event of grid curtailment.

### **No lender-friendly terms**

The Model PPA contains no step-in rights from a lender's perspective. Although theoretically speaking, this would become a matter of negotiation between EVN and the power seller, in practice, EVN would hesitate to insert step-in rights for lenders into the PPAs.

There appears to be no availability of any government guarantee and undertaking for the performance of obligations of the purchaser or any other State-owned enterprise in favour of the seller.

### **Foreign exchange risk**

The tariffs under the Model PPAs will be paid in Vietnam Dong and are indexed to the central exchange rate to be announced by the State Bank of Vietnam on the date of invoice. There is no protection mechanism for the power sellers against the risk of fluctuation of the USD/VND exchange rate between the date of invoice and the date of payment.

### **Dispute settlement**

The dispute resolution mechanism requires the parties to first carry out negotiations, failing which the case may be transferred to ERAV for settlement or another dispute settlement mechanism of their choice according to the laws of Vietnam. It is not explicitly provided under the Model PPAs that the parties may choose arbitration (whether domestic or foreign arbitration) to resolve their disputes. In practice, EVN is always keen on selecting the courts of Vietnam to resolve disputes under the PPAs.

### **Governing law**

Whilst sophisticated lenders usually prefer a well-developed common law such as English law to govern the project documents including the PPAs, the Model PPAs are set to be governed by the laws of Vietnam.



## 5 DIRECT POWER PURCHASE AGREEMENTS

### 5.1 Corporate DPPA

#### Highlights

- On 21 January 2020, the MOIT submitted Proposal No. 544/TTr-BCT enclosing a draft decision on the pilot program on DPPA mechanism for renewable energy in Vietnam.
- On 11 June 2020, the Prime Minister gave a green light and assigned the MOIT to prepare a detailed DPPA pilot program and provide guidance on the implementation of such program.
- On 2 December 2020, the Government Office assigned the MOIT to work with the Ministry of Finance and the Ministry of Justice to finalise the terms of the Contract for Difference (CfD) and other documents relating to the DDPA pilot program.
- On 18 February 2021, the ERAV sent a draft circular providing guidance for the implementation of a Direct PPA Pilot Program to EREA, National Load Dispatch Centre, EVN, Power Corporations and GENCOs for opinions.
- On 8 April 2021, the MOIT released the second draft circular on the implementation of the Direct PPA Pilot Program for public opinions.

<b>Participants</b>	Renewable energy (wind and solar power) generation companies, large-scale end users.
<b>Scale</b>	From 400MW to 1,000MW nationwide for the entire DPPA program.
<b>Selection criteria</b>	<u>GENCOs</u> Having a grid-connected renewable power plant; Having a power plant with an installed capacity of more than 30MW; Power plant project having been included into the PDMP; Having sufficient financial capability, technical resources, and experience in developing and operating renewable power projects. <u>Consumers</u> Using electricity for industrial manufacture; Purchasing electricity with a voltage level of 22kV or more; Committing to purchase for the first three years at least 80%/year of the amount of consumed power that is supplied by EVN within the same year.

	<p>Having financial capability and technical resources;</p> <p>Having international commitments in reaching environment, fighting climate change, and sustainable development goals.</p>
<b>Model</b>	<p>GENCO and EVN enter into a PPA following the MOIT's PPA templates for the sale of power on the spot price according to the Vietnam Wholesale Electricity Market.</p> <p>Consumer and EVN enter into a PPA at the price equal to the spot price plus any service charges such as transmission fees, distribution fees, dispatch fees and other auxiliary service fees.</p> <p>Consumer and GENCO enter into a contract for difference whereby if the agreed strike price is higher than the spot price, Consumer will pay GENCO the amount of the difference between the strike price and the spot price; if the agreed strike price is lower than the spot price, GENCO will pay Consumer the difference.</p>
<b>COD</b>	<p>270 working days as from the announcement of the list of approved GENCOs and Consumers for the Direct PPA Pilot Program.</p>

## 5.2 Rooftop Solar DPPA

According to Decision 13, investors of eligible rooftop solar projects, which satisfy the following conditions, may sell a part or all of the power generated to EVN or other non-EVN entities or individuals:

- (a) having solar panels with maximum installed capacity of 1MW on the roof of a construction site<sup>8</sup> with independent function; and
- (b) directly or indirectly connected to the electricity buyer's power grid with maximum capacity of 35kV.

Whilst power sold to EVN must be on the terms of the standard form PPA and the FIT rates regulated by the Prime Minister from time to time, investors and non-EVN purchasers will have more flexibility in negotiating the PPA terms and prices provided that they are not contrary to the law.

Of note, investors of rooftop solar projects with no more than 1MW in installed power capacity are not required to obtain any Electricity Operation License. A question has been raised as to whether a development of rooftop solar portfolio in which the installed capacity of each component does not exceed 1MW (e.g. multiple adjacent rooftop solar power systems on the same plot of land or roof of an industrial park), would be subject to the requirement for any Electricity Operation License and different PPAs. In response, the MOIT under Official Letter No. 7088/BCT-DL on 22 September 2020 clarified as follows:

- (a) An investor must sign separate PPAs for each rooftop solar system and must not combine the PPAs of all systems into one contract;
- (b) An investor in such circumstances would not be required to obtain any Electricity Operation License.

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<sup>8</sup> Roof of a construction site includes the roof of a house or a house-like structure according to the regulations of the Ministry of Construction.

## ANNEX 1

### PROPOSED SOLAR PROJECTS INCLUDED IN THE DRAFT PDMP VIII

No.	Projects	Installed capacity	Location
<b>2021 - 2025</b>			
1	Viet Yen	49.6	Bac Giang
2	Cong Chinh	50	Thanh Hoa
3	Cam Thuy	48	Thanh Hoa
4	Dong Thinh	47.9	Thanh Hoa
5	Yen Dinh (extended)	42	Thanh Hoa
6	Ky Son	250	Ha Tinh
7	Hong Loc	49	Ha Tinh
8	Trieu Son 1	50	Quang Tri
9	Trieu Son 2	50	Quang Tri
10	Lam Binh	174	Quang Ngai
11	Dap Ho Da Lake	200	Quang Ngai
12	Dap Hoc Doc Lake	200	Quang Ngai
13	Dien Mon	29.3	Thua Thien Hue
14	Ninh Trung	25	Khanh Hoa
15	Ninh Da	15	Khanh Hoa
16	Hiep Thanh	50	Khanh Hoa
17	TTC-Ham Phu 1	49	Binh Thuan
18	Chu gu – Krongpa	49	Gia Lai
19	Hoa Phu I	22	Dak Lak
20	Hoa Phu II	28	Dak Lak

21	Buon Don	48	Dak Lak
22	Xuan Thien – Ea Sup (Phase 2)	600	Dak Lak
23	Buon Joong	20	Dak Lak
24	LUTACO 2	700	Dak Lak
25	Solar power project and Ia Rve forest plant and develop	200	Dak Lak
26	Ea Sup Thuong (upper Ea Sup)	50	Dak Lak
27	Kon Ray	50	Kon Tum
28	Sa Thay	40	Kon Tum
29	Quang Phu	50	Dak Nong
30	Nam Dong	45	Dak Nong
31	Krong No 1,2	50	Dak Nong
32	YBM-HII	50	Phu Yen
33	Europlast Binh Dinh	50	Binh Dinh
34	Thanh Long Binh Dinh	50	Binh Dinh
35	Thanh Son	50	Dong Nai
36	Quang Minh	50	Dong Nai
37	Floating solar power project Tri An lake (Phase 1)	500	Dong Nai
38	Floating solar power project Tri An lake (Phase 2)	700	Dong Nai
39	Gia Mang Lake	130	Dong Nai

40	Cau Moi Lake	100	Dong Nai
41	Thanh Long Tay Ninh	30	Tay Ninh
42	MT3	30	Binh Phuoc
43	MT4	50	Binh Phuoc
44	Dong Dat Do (east Dat Do)	50	Ba Ria Vung Tau
45	Tay Dat Do (west Dat Do)	50	Ba Ria Vung Tau
46	Solar Park 5	625	Long An
47	Solar Park 6	50	Long An
48	Solar Park 7	100	Long An
49	Solar Park 8	100	Long An
50	Red Sun Long An	45.4	Long An
51	Hoa Huong Duong	60	Long An
52	Duc Hue VNT 1	50	Long An
53	Duc Hue VNT 2	50	Long An
54	Duc Hue VNT 3	50	Long An
55	Duc Hue VNT 4	50	Long An
<b>2026-2030</b>			
1	Sunseap Links Song Sat	200	Ninh Thuan
2	Sunseal Vietnam	150	Ninh Thuan
3	Phu Lac 4	40	Binh Thuan
4	Hong Phong 8	100	Binh Thuan
5	Rung Xanh	150	Dak Lak

6	Xuan Thien – Ea Sup (Phase 3)	800	Dak Lak
7	Buon Choah	162	Dak Nong
8	Floating solar power project Tri An lake (Phase 2)	300	Dong Nai
9	Floating solar power project & shrimp farm Binh An	50	Kien Giang
10	Solar power project Kien Luong Lake	48	Kien Giang
11	Tinh Bien	50	An Giang
12	Luong An Tra	500	An Giang
13	Nuoc Trong Lake	100	Tay Ninh
14	Bung Binh Thien Lake	150	An Giang

## ANNEX 2

### PROPOSED WIND PROJECTS INCLUDED IN THE DRAFT PDMP VIII

No.	Projects	Installed capacity (MWp)	Location
1	V3-6 Tra Vinh	348	Tra Vinh
2	V3-8 Hiep Thanh 3	210	Tra Vinh
3	Dong Hai 3	120	Tra Vinh
4	V3-5	100	Tra Vinh
5	V1-3 (phase 2)	48	Tra Vinh
6	Tra Vinh V3-7	400	Tra Vinh
7	Tan Thanh	247.5	Tien Giang
8	Tan Dien	99	Tien Giang
9	Phu Cuong 1A and 1B (extended)	200	Soc Trang
10	Soc Trang No. 12	50	Soc Trang
11	Soc Trang No. 14	50	Soc Trang
12	Soc Trang No. 15	40	Soc Trang
13	Offshore wind Binh Dai District, Ben Tre (Phase 1)	400	Ben Tre
14	Hoa Ky Bac Lieu	150	Bac Lieu
15	Kosy Bac Lieu (phase 2)	50	Bac Lieu
16	Soc Trang No. 13	40	Soc Trang
17	Lich Hoi Thuong	100	Soc Trang
18	BIM (phase 2)	50	Ninh Thuan
19	Lo Pang	200	Gia Lai



20	Tay Ho – Chu Prong	50	Gia Lai
21	Bo Ngoong	350	Gia Lai
22	Xa Trang	350	Gia Lai
23	Gia Lai	49	Gia Lai
24	Ia Le 4	49.5	Gia Lai
25	Ia Glai 1	49.5	Gia Lai
26	Hoang An	70	Gia Lai
27	Phu My	100	Gia Lai
28	Phuoc Son	50	Gia Lai
29	Plei Boong	5	Gia Lai
30	HE Gia Lai	150	Dak Lak
31	Nhon Hoa 3	50	Gia Lai
32	Nhon Hoa 4	50	Gia Lai
33	Ia Ha	50	Gia Lai
34	Ia Boong – Chu Prong	150	Gia Lai
35	Tan Yang – Dak Po	120	Gia Lai
36	Ia Le 2 (under Ia Le Group)	50	Gia Lai
37	Thang Hung	100	Gia Lai
38	Ia Blu 1	50	Gia Lai
39	SD Chu Prong	100	Gia Lai
40	Dun 1	50	Gia Lai
41	Dak Ta Ley	49	Gia Lai
42	Tuy Duc 1	50	Dak Nong
43	Tuy Duc 2	50	Dak Nong

44	Tuy Duc 3	50	Dak Nong
45	Tuy Duc 4	50	Dak Nong
46	Dak Psi 1	30	Kon Tum
47	Dak Psi 2	30	Kon Tum
48	Dak Psi 3	30	Kon Tum
49	Kon Ray 1	28.8	Kon Tum
50	Kon Ray 2	29.7	Kon Tum
51	Kon Ray 3	28.0	Kon Tum
52	Dak Koi 1	29.7	Kon Tum
53	Ngoc Reo 1	29.7	Kon Tum
54	Ngoc Reo 2	28.8	Kon Tum
55	Buon Ho 3 (phase 2)	100	Dak Lak
56	Ea Sin 1	100	Dak Lak
57	Cu Pong 1	48	Dak Lak
58	Cu Pong 2	48	Dak Lak
59	East Ea H'leo	50	Dak Lak
60	West Ea H'leo	30	Dak Lak
61	Krong Ana 1	160	Dak Lak
62	Krong Ana 2	160	Dak Lak
63	Tay Nguyen, phase 1.1	30	Dak Lak
64	Tan Lap – Ea Ho	50	Dak Lak
65	Ea Hiao	100	Dak Lak
66	Tuy An 1	50	Phu Yen
67	Tuy An 2	50	Phu Yen

68	Tuy An 3	50	Phu Yen
69	Bac Phu Yen 1	50	Phu Yen
70	Bac Phu Yen 2	50	Phu Yen
71	Bac Phu Yen 3	50	Phu Yen
72	Bac Phu Yen 4	50	Phu Yen
73	Phu My	50	Binh Dinh
74	Ky Anh PT 1, 2, 3	150	Ha Tinh
75	Ky Nam	220	Ha Tinh
76	Huong Son 2	30	Quang Tri
77	Ha Do – Quang Tri	30	Quang Tri
78	Cam Tuyen 1, 2, 3	2x30	Quang Tri
79	Tan Hop 1	30	Quang Tri
80	Le Thuy 3	50	Quang Binh
81	Bui Hui	120	Quang Ngai
82	Ky Anh MK	403.2	Ha Tinh

### **ANNEX 3**

#### **ABBREVIATIONS**

<b>COD</b>	Commercial Operations Date
<b>DPPA</b>	Direct power purchase agreement
<b>ERAV</b>	Electricity Regulatory Authority of Vietnam
<b>EREA</b>	Electricity and Renewable Energy Authority
<b>EVN</b>	Electricity Vietnam
<b>FIT</b>	Feed-in-tariff
<b>GENCO</b>	Power generation company
<b>MOIT</b>	Ministry of Industry and Trade
<b>MONRE</b>	Ministry of Natural Resources and Environment
<b>PDMP</b>	Power Development Master Plan

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