

Client Alert

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Updates to Draft Decision on solar power projects in Vietnam

Following the Prime Minister's instructions under Notice No. 402 dated 22 November 2019,¹ on 6 December 2019, the Ministry of Industry and Trade ("MOIT") prepared and released a new draft Decision on mechanisms for the development of solar power projects in Vietnam (together with a new proposal to the Prime Minister on related matters, (the "New Draft Decision")).

Limitations on new FiT for solar farms

Under the New Draft Decision, for solar farms, the new FiT proposed:

- For floating solar power projects: VND 1,758 per kWh (equivalent to 7.69 US cent per kWh);
- For ground-mounted solar power projects: VND 1,620 per kWh (equivalent to 7.09 US cent per kWh).

However, this new FiT will only be applicable to solar farms:

- 1) for which Power Purchase Agreements ("PPAs") have been signed before 22 November 2019;
- 2) which commenced construction before 22 November 2019; and
- 3) which will achieve their commercial operation date ("COD") between 1 July 2019 until 31 December 2020.

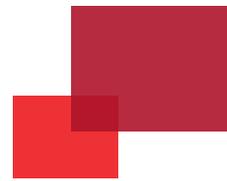
For the 2nd criteria of "commenced construction", the MOIT has clarified in its proposal that eligible solar farms must be limited to those that have:

- technical design appraised by the relevant authority (i.e., the MOIT or the DOIT depending on the installed capacity) in case of applying a 3-step design option; or detailed (construction drawing) design completed in case of applying a 2-step design option;
- construction permit (as applicable); and
- execution of construction contract with relevant contractor(s).

According to EVN's report to the MOIT dated 2 December 2019,

- there were 2 solar farms achieving CODs after 30 June 2019 as confirmed by EVN;
- there were 33 solar farms with a total capacity of 2,294 MWp for which PPAs were signed before 1 July 2019 but for which CODs have not been achieved and confirmed yet.
- there were 6 solar farms with a total capacity of 435MWp for which PPAs were signed between 1 July 2019 and 22 November 2019 but for which CODs have not been achieved and confirmed yet.

¹ Notice No. 402/TB-VPCP of the Office of Government dated 22 November 2019 on conclusions of the Prime Minister at the Government's meeting on the Draft Decision on mechanism for development of solar power projects in Vietnam ("Notice No. 402").



Accordingly, the MOIT's Electricity and Renewable Energy Authority ("EREA") is requested to review and prepare a list of solar farms eligible for the new FiT based on the above-determined criteria for reporting to the Prime Minister.

Limitations on new FiT for rooftop solar

Compared to the previous draft, the New Draft Decision proposes reducing the new FiT for rooftop solar power systems from VND 2,156 per kWh (equivalent to 9.35 US cent per kWh) to VND1,916 per kWh (equivalent to 8.38 US cent per kWh). This new FiT is proposed for rooftop solar systems which achieve CODs between 1 July 2019 and 31 December 2021.

However, this new FiT will only be applicable to limited rooftop solar systems directly connected to EVN's local grid with voltage of 35kV or less, in addition to the existing limitation on the threshold of installed capacity of no more than 1MWp.

According to the MOIT's report by end of November 2019, there are currently 19,378 rooftop solar systems with a total capacity of 318MW installed nationwide, with a focus on the southern region of Vietnam.

Clarifications on the special policy for Ninh Thuan Province

Regarding Ninh Thuan Province, the New Draft Decision continues recognizing the special policy for this province by allowing limited solar power projects with the total accumulated capacity cap of 2,000 MW achieving actual COD before 1 January 2021 to be eligible for the extended FiT of 9.35 US cents per kWh.

Notice No. 402 recently clarified that the application of this policy will be applied only until Ninh Thuan province reaches its capacity of 2,000 MW or the end of 2020, whichever comes first.

However, it remains unclear as to whether the threshold of "2,000 MW" is DC capacity or AC capacity and how to deal with cases where the combined capacity of eligible projects does not match this threshold exactly.

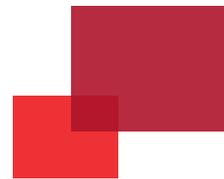
Specific intentions for pilot solar auctions

For all other solar farms/projects which are not be eligible for the new FiT mechanism, the MOIT proposes that a definite transition to a competitive, open and transparent bidding mechanism (also known as solar auction or reverse auction) should be formulated and implemented.

Under the New Draft Decision, MOIT's new proposal to the Prime Minister and MOIT's Notice No. 349 dated 5 December 2019, the MOIT proposed the following considerations for solar auctions:²

- MOIT's EREA is requested to urgently formulate the mechanism for solar auction and model bid invitation dossier.
- EVN is requested to review and report to the MOIT, during the 1st quarter of 2020, on potential locations and substations with voltage of 110kV or

² Notice No. 349 of the MOIT dated 5 December 2019 on conclusion of MOIT Deputy Minister at the meeting for implementation of Notice No. 402.



larger which are feasible until the end of 2021 (taking into account the progress/schedule of associated transmission lines and substations until the end of 2021) for the MOIT's considerations and studies for future solar auctions.

- Method of pilot solar auction: EVN is requested to select one (1) potential location for pilot solar auction in accordance with the Bidding Law and other relevant legal regulations.
- Scale of pilot solar auction: tentatively equivalent to 50-100MWp solar project(s).
- Potential location and technology: floating solar farm at a hydropower dam. For this proposal, the MOIT explained that this is proposed given the difficulties on land clearance and arrangements for infrastructure and interconnection facilities for ground-mounted solar farms.
- Timing/schedule: By 2020.

For the pilot round of solar auction, the MOIT proposed to the Prime Minister for deciding to assign EVN to prepare working plan for pilot round of solar auction for submission to the MOIT for the MOIT's review and submission to the Prime Minister for approval during the 1st quarter of 2020.

The MOIT proposed that based on this pilot round of solar auction, the MOIT will propose formulating and consider applying a full operation of solar auction mechanism nationwide.

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Please note that the New Draft of December 2019 is still in draft form, subject to the Government's further discussion and conclusion.

Please do not hesitate to contact us if you would like to understand more about:

- the rationales behind the proposed changes to the mechanisms under the New Draft;
- the likelihood of approval of this New Draft;
- other provisions of the New Draft as well as potential upcoming additional guidelines by the MOIT and relevant ministries for implementation of this proposed Decision, including new model solar PPAs;
- potential impacts of the proposed New Draft on specific projects and necessary steps going forward; and / or
- opportunities and challenges for new investments in solar or other power projects in Vietnam.