

Client Alert

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Vietnam's official principles and priority orders for approving the inclusion of new power and energy projects in the master plans

Recent developments

Following the resolutions of the National Assembly, the Government of Vietnam and the Party Committee under the Ministry of Industry and Trade ("MOIT") for the implementation of transitional provisions of the new Master Planning Law, the MOIT recently issued Decision No. 329 officially setting out the principles and priority orders for the inclusion of new power and energy projects into the master plans.¹

Decision No. 329 inherits certain key contents, with some modifications, from the previous Resolution No. 21 of the MOIT's Party Committee. Decision No. 329 sets specific orders of priority for the MOIT and other governmental agencies' reviews and approvals for numerous newly proposed projects applying for inclusion in the master plans.

Decision No. 329 makes the master plan approval process more selective in terms of energy sources, power generation technologies and certain characteristics of specific projects, such as their location, grid connection plan, development progress and scale, among other factors.

These rules may significantly impact private developers of different types of projects that have been newly proposed or are being developed but are pending final approval for inclusion in the master plans, ranging from renewable (wind, hydro, biomass, waste-to-energy) power projects to conventional (LNG-to-power) projects.

While the development of these rules indicates an intended process of continuing to approve more projects in the master plans (including amended PDP VII) for developments, the specific policies contained in Decision No. 329 create new areas of uncertainty for private developers, especially those developing projects under low-priority categories, due to the lack of a detailed guidance on implementing the selection process for various types of projects, whether under Decision No. 329 or elsewhere.

We set out below the specific priority order for projects to be included in the existing master plans under the MOIT's Decision No. 329.

Priority order for approving proposed inclusions

Under Decision No. 329, the MOIT sets out a general priority order for all power and energy facilities as follows:

1. Inclusion of power grids are prioritized over inclusion of power generation sources; and

¹ Decision No. 329/QD-BCT of the MOIT dated 22 January 2020 on the principles and orders of implementation of adjustments and additions to the master plans on power projects ("**Decision No. 329**").





2. Priority is given to areas with the abilities to absorb capacities, areas with high loads, and poor localities with fewer approved projects.

Specific priority order for power grid systems

Under Decision No. 329, the MOIT sets out a priority order for approving power grid systems as follows:

1. Transmission grid projects, which have not been included in the amended PDP VII, but have been approved by the Prime Minister and included in EVN's 5-year plan; or 220kV transmission grid projects, which have been approved in the provincial-level Power Development Plan for the period of 2016 - 2025, with consideration to 2035;
2. Power grid projects already included in the amended PDP VII which require modifications to their operation schedule and/or scale;
3. Power grid projects for absorb capacities of hydropower and renewable energy sources;
4. Power grid projects for power supply to new loads or adjusting power supply plans for loads such as power generation and supply to industrial zones and factories absorbing high capacities;
5. Power grid projects serving as interconnection to power generation projects, for which power plants have been included in the master plans but their grid interconnection plans have not been approved and are pending re-approval following adjustments.

Specific priority order for power plant/generation projects

Under Decision No. 329, the MOIT sets out a priority order for approving power plant/generation projects as follows:

1. **Wind** power projects with priorities over appraised projects, and projects which (i) are capable of completing commercial operation of their power plants and interconnection grid facilities before November 2021 (i.e., before the current wind FiT deadline), (ii) are developed in areas for which their grids are not overloaded;
2. **Waste-to-energy** power projects (ensuring environmental issues);
3. **Biomass** power projects;
4. Small- and medium-scaled **hydropower** projects, which have been included in master plans, but for which their installed capacity requires adjustment for re-approval;
5. Small- and medium-scaled **hydropower** projects newly proposed for inclusion in the master plan;
6. **Conventional** power generation projects, among which priority is given to **large-scaled hydropower** and **gas-to-power** projects).
7. **Solar** power projects, for which inclusion of newly proposed projects on a project-by-project basis is pending until the conclusion and official issuance of new Decision on solar power (based on Notice No. 402/TB-VPCP dated 22 November 2019 of the Office of Government).



Further implications for wind power projects

While priority is given to wind over other energy sources, among wind projects, priority is further given by additional factors. Specifically, under Decision No. 329, priorities are given to wind power projects with advantages based on land, grid connection and probability to come into operations before November 2021 with the following order of priority:

1. wind power projects with completed appraisals (for inclusion in the master plans);
2. wind power projects with advantages on locations and grid connections;
3. other wind power projects.

In each group of projects above, the order of priorities will be determined with the principle of “the project with written proposal of provincial-level People’s Committee sent to the MOIT first will be processed first”.

Relevant existing master plans for inclusion of newly proposed projects

Notwithstanding the priority order set out above, it is of prime importance for developers to apply for their projects to be included in the right master plans and for developers to be aware of the subsequent implications of those master plans.

For this purpose, the Government of Vietnam has issued Resolution No. 110 providing a list of over 257 types of previously approved master plans that are eligible for continued application based on the transitional provision of the Master Planning Law,² following the earlier Resolution No. 751 of the National Assembly’s Standing Committee.³

For the power industry, this list includes the following key master plans for power development:

1. The National Power Development Plan for the period of 2011-2020 with consideration to 2030, as amended and supplemented in March 2016 (also known as the Amended PDP VII); and
2. 63 provincial-level Power Development Plans of 63 provinces and cities under the central government for the period of 2016-2025 with consideration to 2030.

In addition, depending on the energy sources and power generation technologies involved, other technology-specific or energy source-specific master plans will be relevant for approval purposes. This includes 11 provincial-level Wind Power Development Plans for the period of 2011-2020, with consideration to 2025, which have been issued by the MOIT for 11 provinces of Binh Thuan, Ninh Thuan, Soc Trang, Quang Tri, Tra Vinh, Ben Tre, Ca Mau, Bac Lieu, Thai Binh, Dak Lak, Ba Ria-Vung Tau.

² Resolution No. 110/NQ-CP dated 02 December 2019 of the Government (“**Resolution No. 110**”).

³ Resolution No. 751/2019/UBTVQH14 dated 16 August 2019 of the Standing Committee of National Assembly (“**Resolution No. 751**”).



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For other energy sources, consideration also needs to be taken in relation to other master plans on:

- **gas/LNG-to-power and LNG terminal** projects (particularly, the Vietnam Gas Industry Development Master Plan to 2025 with a vision to 2035, and the LNG terminals development master plan until 2020 with a vision to 2030);
- **small and cascade hydropower** projects (particularly, national small hydropower master plan and 13 cascade hydropower master plans);
- **biomass** power projects (particularly, regional-level biomass power master plans);
- **other renewable** energy projects (particularly, regional-level renewable energy master plans); and
- **coal-fired** power projects (particularly, Vietnam Coal Industry Development Master Plan until 2020).

In short, at this point in time, the specific volume, schedule, scale of the proposed projects and the probability of getting approvals for inclusion in the relevant master plans will be determined on a project-by-project basis based on the interaction of several factors.

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In the new context of Vietnam, while there are still plenty of areas for short-term and long-term opportunities in power and energy projects, it is essential for private investors to identify the right opportunities, taking into account the characteristics of specific projects, the interaction of relevant master plans and policies, as well as the best practices and market roadmaps to respond to challenges at this point in time.

If you would like to discuss in further detail about the developments above, how they impact specific project(s) and the necessary steps and legal solutions going forward, please do not hesitate to contact us.