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Updates on Legal Framework for Wind Power Developments and Implications to Wind Power Projects in Vietnam

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Agenda

1 KEY NEW LEGAL DOCUMENTS

2 KEY REGULATORY CHANGES
AND IMPLICATIONS TO WIND
PROJECTS IN VIETNAM

3 POTENTIAL CHANGES TO THE
REGULATORY FRAMEWORK

Key New Legal Documents

- PM's Decision 39/2018 amending and supplementing PM's Decision 37/2011 on the support mechanisms for development of wind power projects in Vietnam ("**Decision 39**");
- MOIT's Circular 02/2019 on the development of wind power projects and wind model PPA ("**Circular 02**");
- MOIT's Circular 36/2018 on the procedure and order for issuance of Power Operation Licenses ("**Circular 36**");
- Law on Master Planning 2017 and guiding Decree 37/2019.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

1. Increased FiT

- Under Decision 39, tariffs at the delivery point are as follows:
 - For onshore wind power projects: VND 1.928 per kWh (exclusive of VAT, equivalent to USD cents 8.5 per kWh); and
 - For offshore wind power projects: VND 2.223 per kWh (exclusive of VAT, equivalent to USD cents 9.8 per kWh).
- Exchange rate: USD 1 = VND 22,683, which is the central VND-USD exchange rate announced by the SBV on 30 August 2018; adjustable based on fluctuation of the VND-USD exchange rate.
- The revised FiT applies to part or the whole of the plants that reach COD before 1 November 2021 and will apply for 20 years from the COD.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

1. Increased FiT (continue)

- Implications to wind projects in Vietnam:
 - For wind farms which came into commercial operation before 1 November 2018, the developer may re-sign the PPA with EVN to apply the revised FiT under Decision 39 from 1 November 2018 until expiration of the remaining term of the existing PPA.
 - New projects to consider the possibility to meet the FiT deadline; and follow up on policies for the period from 1 November 2021.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

2. Revised Guidelines on Development of Wind Projects

- Requirement on PDP compliance:
 - Adjustments to project schedules resulting in difference of longer than 6 months or division of the project into different smaller projects are required to be reported to the competent authorities for approval.
 - Application for projects developed under existing provincial WPDPs.
- Removal of requirement for minimum height of 60 meters for met masts. Instead, the method, equipment and results of wind measurement tests must conform to international standards of the International Electrotechnical Commission ("**IEC**") or an equivalent international standard.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

2. Revised Guidelines on Development of Wind Projects (continue)

- Land density requirement: Circular 02 reduces the maximum land use area/rate:
 - The rate of land area for permanent use in a specific period/term may not exceed 0.35 ha per MW (previously: 0.5 ha per MW); and
 - The rate of land area for temporary use may not exceed 0.3 ha per MW (previously: 0.7 ha per MW).

Key Regulatory Changes and Implications to Wind Projects in Vietnam

2. Revised Guidelines on Development of Wind Projects (continue)

- Implications to Wind Projects in Vietnam:
 - For new projects: developers to consider factors such as WTG technologies and land use to meet the new requirement under Circular 02.
 - For existing projects: potential issues and impacts on existing projects, which have secured larger land area.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

3. Revised Model PPA

- Removal of EVN's limitation of liability for compensation of “1-year revenue” upon termination of PPA.
- Clarification on technical curtailment risks:
 - The model PPA clarifies that any reduction or suspension of EVN's receipt of power output should be "*in conformity with the regulations on operation of the national power system, the regulations on the process of handling breakdowns in the national power systems and the power industry technical regulations and standards*".
 - But for grid capacity concerns, additional liabilities are imposed under GCAs.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

3. Revised Model PPA (continue)

- Relaxation of Power Seller's event of default due to failure to achieve proposed COD: In the previous model PPA, failure to achieve the intended COD in the PPA appendixes for a period of 3 months (except for force majeure event) may constitute an event of default. Circular 02 adds the following clarifications:
 - Extension to investment schedule by the competent authorities; and
 - Within a period of 6 to 12 months prior to the intended COD, the power seller may officially elect to change the expected COD.

Key Regulatory Changes and Implications to Wind Projects in Vietnam

3. Revised Model PPA (continue)

- Implication for Wind Projects in Vietnam:
 - The revised model PPA addressed some (but not all) of the concerns of renewable energy developers in Vietnam regarding risks allocation issues arising out of the previous model PPA.
 - The revised model PPA also made adjustments for alignment with PPA for solar projects (e.g., silence on lender's step in rights, revised wordings of dispute resolution clause).
 - But the template, other key features and issues as well as certainty, clarity and drafting standards of the model PPA remain mostly unchanged.

Potential Changes to the Regulatory Framework

- Potential auction for the period after 1 November 2021, but still in studying process.
- Draft Decree replacing Decree 51/2014 on sea areas (potential impact on approval authority for offshore wind projects)
 - re-classify approval authorities for 3-nautical-mile sea regions, the inter-regional sea areas, 6-nautical-mile sea regions;
 - MONRE has authority for approval of sea area from 100ha.
- Pilot DPPA mechanism (some progress on study process for pilot program).

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Questions

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