

A background image of solar panels, showing a grid of blue cells with white lines, viewed from an angle that creates a sense of depth and perspective.

## Vietnam's New Solar Power Policy

### IN SHORT

**The Situation:** Vietnam's overreliance on coal-fired and hydropower projects have led to energy security concerns.

**The Action:** The nation's prime minister signed into law "Decision 11," which supports the development of solar power projects.

**Looking Ahead:** Very broad in its scope, Decision 11 addresses logistical issues, economic incentives, tax policy, land-use charges, and other related matters.

Effective June 1, 2017, Decision No. 11/2017/QĐ-TTg ("Decision 11"), supports the development of solar power projects to address energy security concerns related to the overreliance on coal fired and hydropower projects. Vietnam's Prime Minister signed the decision on April 11, 2017. The Ministry of Industry and Trade ("MOIT") also issued a circular containing a draft model power purchase agreement ("Draft PPA").

#### Ground-Mounted Photovoltaic Power Plants

##### Feed-in-Tariff

The feed-in-tariff ("FiT") of USD0.0935 per kWh, excluding value added tax, applies to on-grid solar photovoltaic projects.

To be eligible, the project's solar cell efficiency must be above 16 percent or have solar module efficiency above 15 percent. There is no separate FiT for off-grid rooftop solar power projects, and no provision for other forms of solar technology.

##### Term

The power purchase agreement will have a term of 20 years from commercial operation date, extendable based on then prevailing regulations.

##### Direct Power Purchaser is EVN

Consistent with all Vietnam independent power projects, Vietnam Electricity Corporation ("EVN") is the only permissible power purchaser. This precludes corporate investors from directly purchasing power from project developers.

#### Residential Rooftop Systems

##### Net Metering

Rooftop photovoltaic systems are eligible for a net metering support scheme using a bidirectional meter. Excess energy within a billing period will rollover to the next billing period. Excess balances at year end or on termination will be sold to EVN.

##### No Capacity Cap

There are no capacity caps for rooftop systems.

## Incentives for Solar Power Projects

The available incentives are consistent with existing incentives for projects in other investment sectors prioritized by Vietnam ("Prioritized Projects").

### Investment Capital

Capital may be deployed from both domestic and foreign sources, in accordance with existing regulations.

Under Decree No. 32/2017/-ND-CP ("Decree 32") issued on March 31, 2017, investors in solar power projects may also apply to the Vietnam Development Bank for a loan of up to 70 percent of the total investment capital, excluding working capital and with a maximum tenure of 12 years. The interest rate is a weighted average of the interest rates for five-year government-backed bonds issued by the Vietnam Development Bank.

### Import Duty Exemption

All solar power projects are exempt from import duty for goods that form fixed assets in the project.

### Corporate Income Tax

The corporate income tax incentives for solar power projects will be similar to those for Prioritized Projects.

### Land

Solar power projects, transmission lines, and transformers connected to the grid are exempt from land use charge and rent. This is consistent with the position for Prioritized Projects.

The Provincial People's Committee will allocate land for investors to implement solar power projects.

## Transitioning

It is uncertain what will happen when Decision 11 expires on June 30, 2019. Beginning on June 1, 2017, parties to an existing solar power purchase agreement must negotiate and enter into an amendment, to conform with Decision 11.

## Bankability Concerns

While the MOIT has issued the Draft PPA for public consultation, there are a number of fundamental bankability issues highlighted below that remain unaddressed.

### Grid Risk Allocation

The project developer is responsible for grid connection costs and risks. However, the Draft PPA does not factor in project capacity, distance from existing transmission lines, and higher costs of installing transmission lines over longer distances.

### Credit Support

Given that EVN is the sole offtaker, a government guarantee or assurance in the form of credit support or deemed availability would address risk and bankability concerns.

### Political Risks

In the event of a change in laws or taxes or increased costs attributable to political force majeure, there is no guidance on payment protection or deemed availability.

### Limited Offtaker Obligation

The Draft PPA provides that EVN may choose to stop purchasing electricity without having to compensate the project developer. There is no concept of deemed commissioning, and EVN is only obligated to pay for electricity it actually receives. In the event of termination due to EVN's default, EVN is not required to compensate the project developer for outstanding debts or expected return on equity beyond proven damages.

### Exchange Rate

The FiT is sensitive to exchange rate fluctuations, and the currently applicable rate is 22,316 VND/USD as specified in the Draft PPA. However, the Draft PPA does not provide for indexation.



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## Dispute Resolution

Under the Draft PPA, disputes may be brought before the Vietnamese courts in the case of litigation, and to relevant state authorities in the case of mediation. There is no provision for international arbitration.

Further revisions will be required before the Draft PPA can be considered bankable. The public consultation process has commenced this month and we expect the Draft PPA to be finalized towards the end of 2017.

### TWO KEY TAKEAWAYS

1. Vietnam's Ministry of Industry and Trade has released a draft model power purchase agreement ("PPA"), but a number of significant issues—grid risk allocation, credit issues, potential changes in the political realm, and others—are not addressed.
2. Further revisions of the PPA are required to address bankability. The model PPA is expected to be finalized in late 2017.

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