



Legal Update on Decision No. 13/2020/QĐ-TTg Highlights on Vietnam's new supportive mechanism for solar power projects

Solar development in Vietnam has been blooming since the introduction of attractive solar FIT under Decision 11/2017/QĐ-TTg on the development of solar power projects (**Decision 11**). However, Decision 11 expired on 30 June 2019 without any immediate replacement, the previous FIT under Decision 11 is no longer applicable to solar projects not reaching COD after 30 June 2019, thus put many solar developers on misgiving and hesitations in further pursuing solar development projects in Vietnam. Yet, it is better late than never, after numerous consideration with multiple draft versions, on 06 April 2020, the Prime Minister has now officially issued the long-awaited new supportive mechanism for solar power projects in Vietnam – under Prime Minister Decision No. 13/2020/QĐ-TTg (**Decision 13**), which will take effect from 22 May 2020.

In this legal update, we will highlight some major changes under Decision 13 that, from our point of view, developers should stay alert on.

1. Electricity's Purchasers and Sellers

Decision 11 mandates Vietnam Electricity (and its authorized member companies - **EVN**) to be the sole off-taker of green electricity generated from solar power projects. Nonetheless, Decision 13 now offers more market-friendly approach, where the electricity purchasers also include electricity retail and distribution units which are not under EVN. Accordingly, EVN is no longer a single player under the monopoly electricity market as setting out under Decision 11. This is a positive change to comply with the development orientation of Vietnam's electricity market

which will be transitioned into the Wholesale Electricity Market in 2019 and Retail Electricity Market in 2025.¹

Also, EVN is no longer a “single seller” of electricity to end users. Under Decision 13, licensed electricity retail and distribution units which are not under EVN can also be the electricity sellers to end users.

2. Types of solar power projects

Similar to Decision 11, Decision 13 regulates solar power projects which generate electric power through the conventional solar photovoltaic (PV) power system; accordingly, there are two types of solar power projects: (i) roof-mounted (or rooftop) and grid-connected. The difference between the regulations of Decisions 11 and 13 is that the later details specifically the project forms in each type of solar power project. In particular:

- (a) Rooftop solar power projects are systems having solar panels installed on rooftops of construction buildings and the maximum installed capacity of 1MWp, directly or indirectly connecting to the Purchasers’ power grid with voltage of 35kV or below. Specifically, Decision 13 classifies rooftop solar power projects into two sub-types: (i) projects selling partly or wholly their electricity production to EVN, and (ii) projects selling partly or wholly their electricity production to other Purchasers in case not being directly connected to the EVN’s grid.
- (b) Grid-connected solar projects are those that directly connect to the national grid but are not the rooftop projects. Decision 13 clearly stipulates two models of grid-connected projects as follows:
 - Floating solar projects are projects with solar panels installed on water surface.
 - Ground-mounted solar projects are grid-connected projects, except float solar projects.

3. Feed-in tariff (FIT)

Decision 13 now introduces general FIT applicable to projects located in all provinces of Vietnam except Ninh Thuan, and a separate (higher) FIT for projects located in Ninh Thuan province. From our point of view, this arrangement is too favorable for those projects being developed in Ninh Thuan at present, but it is yet understandable, since the development of solar projects in Ninh Thuan province has been too hot during the attractive time while Decision 11 was still in place.

FIT for projects not located in Ninh Thuan

From a practical viewpoint, FIT is a key provision that receives a lot of attention from the developers. Since the establishment of Decision 11, numerous comments and proposals have been made relating to the new FIT after 30 June 2019. In the previous draft versions, the Ministry of Industry and Trade (the **MOIT**) also proposed some new FIT regimes, including the

¹ Decision No. 63/2013/QĐ-TTg of the Prime Minister dated 08 November 2013 on schedule, conditions and structure of electricity sector for formulation and development of electricity market levels in Vietnam.

determination of FIT rate based on different radiation regions and types of solar power projects. Eventually, Decision 13 decides to differentiate fixed FIT rates applicable to each types of project, not radiation regions, as follows²:

No	Types of solar power projects	FIT	
		VND/kWh	US cent/kWh
1	Float solar power project	1,783	7.69
2	Ground-mounted solar power project	1,644	7.09
3	Rooftop solar power project	1,943	8.38

The above FITs will be applied for 20 years from the commercial operation date (**COD**) of the projects which fulfil the following conditions:

- (a) *For grid-connected solar power projects*: the FIT will be applied for projects having been approved the investment policy before 23 November 2019, reaching COD in the period from 01 July 2019 to 31 December 2020 and having efficiency of solar cells greater than 16% or efficiency of solar modules greater than 15%. For projects not fulfilling these conditions, the purchase price of electricity shall be determined by a “*competitive mechanism*”. We understand that the competitive mechanism under Decision 13 is the price auction mechanism which will soon be run trial by the MOIT and EVN.
- (b) *For rooftop solar power projects*: the FIT will be applied for projects directly connected to EVN’s grid, sold electricity to EVN, reaching COD and certifying meter readings in the period from 01 July 2019 to 31 December 2020. For projects not directly connected to EVN’s grid, sold the electricity to other individuals or entities which are not EVN, the purchase price is to be agreed between the parties.

FIT for projects in Ninh Thuan:

For solar power projects in Ninh Thuan which have been included in the national/provincial power development plans and reach COD before 01 January 2021, the applicable FIT will be VND 2,086/kWh (equivalent to US 9.35 cents/kWh). This special exception complies with Resolution No. 115/NQ-CP dated 31 August 2018 of the Government on special mechanisms and policies applicable to Ninh Thuan in the period between 2018 and 2023. Projects in Ninh Thuan province not being able to meet the COD deadline by 01 January 2021 shall have applicable FIT be determined by *competitive mechanism* which shall be introduced at that time.

² Annex attached to Decision 13.

4. Power purchase agreement (PPA)

Using the model PPA is compulsory for developers of solar power projects having EVN as the Purchaser. Similar to Decision 11, Decision 13 introduces a fixed term of the solar energy PPA of 20 years from the date of commercial operation, following which the parties may agree to extend the term or sign a new PPA pursuant to the existing regulations. The MOIT will promulgate a new circular to guide the implementation of Decision 13, in addition to introduce a new model PPA.

For other projects of which Purchaser is not EVN, Decision 13 allows the parties to freely negotiate the provisions. However, we understand that the MOIT will issue a detailed guidance in this respect.

5. Conclusion

Going forward, the promulgation of Decision 13 has partly eased the developers' worries and constituted a more solid ground for the next development phase of solar power in Vietnam.

Whilst Decision 13 is no doubt a key legal instrument, many provisions are still require further clarifications from the Government to have a practical effect of supporting the development of solar PV projects in Vietnam in the next phase, especially the policies relating to price auction mechanism and direct PPA. However, it is undeniable that Decision 13 has opened a new chapter for the development of solar power projects in Vietnam, which is to break EVN's monopoly as a single purchaser of electricity.

Key contacts

If you have any questions or would like to know how this might affect your business, please contact the key contacts.



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