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**Legal Update on Official Letter 541/EVN-TTD
Highlights on Vietnam's proposed auction mechanism
for solar power projects**

Following the Government of Vietnam (**GOV**)'s recent decision to transit from a feed-in tariff (**FIT**) to a competitive auction mechanism for solar power projects, Vietnam Electricity (**EVN**) issued Official Letter No. 541/EVN-TTD on 4 February 2020 to submit proposed auction plans. This official letter is prepared by EVN based upon a report by the World Bank (**WB**) on Vietnam solar competitive bidding strategy and framework (please refer to the attachment). The proposed auction mechanism is set out below.

1. Executing entity

EVN proposes for two entities to conduct an auction, they are either the Ministry of Industry and Trade (**MOIT**) or a Provincial People's Committee (**PPC**).

2. Auction schemes

2.1. Scheme 1: Single bidding (similar to WB's solar park bidding)

- Applicable subjects: Large specified projects with favourable conditions on radiation, connection, land and water surface.
- Method: The MOIT, upon recommendation from the PPC and consultation with EVN, decides to add projects to the power plan. Subsequently, relevant information on the projects will be publicized. Investors will then be selected through bidding to proceed on working with the PPC on land allocation and investment policy decisions together with making their

own calculation of investment costs. The winner is the one offering the lowest price at the connection point and eligible to sign a power purchase agreement (PPA) with EVN.

2.2. Scheme 2: Mass bidding

- Applicable subjects: Projects which have been proposed by provinces and are suitable for provincial land plan.
- Method: The connection conditions are tested for each round of bidding on the principle that EVN only builds grid works as planned and investors are responsible for the works connected to the EVN-owned grid. In each round of bidding, the demand for solar power is lower than the total solar power capacity that has met the connection requirements. Investors will be selected upon demand and according to the Pay-as-bid method, *i.e.*, projects having the bidding price at the connection point from low to high with the ceiling price equal to the FIT or the average bid-winning price of the preceding bidding round. Projects selected will then be added to the power plan with PPA signed with EVN, while those eliminated will have the right to directly participate in the next bidding round.

2.3. Scheme 3: Regional bidding (similar to WB's substation-based bidding)

- Applicable subjects: All investors.
- Method: The MOIT identifies the purchasing electricity capacity in areas (substation and related lines) suitable for the clearance capacity of the grid, meeting the demand for solar power development in these areas. Investors will be invited to bid upon fulfilling preliminary requirements on ground and alignment with the provinces. Successful bidders are selected following the Pay-as-bid method with the ceiling price equal to the FIT. Similar to Scheme 2, the winner will be qualified for having their project added to the power plan along with a PPA signed with EVN.

3. EVN's recommendations to MOIT

- a) Apply the three above schemes in Q2 2020, with Scheme 1 for large-scale solar projects and floating solar projects that have been supplemented to the power plan, Scheme 2 for selecting projects with large capacity to help cut the risk of electricity shortage, and Scheme 3 for long-term application.
- b) Pilot bidding for floating solar projects in Q2 2020.
- c) Apply the new FIT mechanism (currently proposed at US 8.38 cents/kWh) for projects added to the power plan but not yet signed PPA with EVN. Otherwise, conduct mass bidding for these projects (having COD before 30 June 2021) in Q2 2020, and for projects having COD after 30 June 2021 shortly thereafter.

Attachment

Summary of World Bank's report on Vietnam solar competitive bidding strategy and framework

1. Solar deployment targets and timeline

The World Bank (**WB**) proposes that the Government of Vietnam pilot competitive bidding in 2020-2021 by three different schemes totaling 1.2 GW, including 500 MW substation-based competitive bidding, 200 MW floating solar park, and 500MW ground-mounted solar parks with. After the pilot phase, it is recommended to launch bids for 1–2 GW of capacity each year with a blend of substation-based bids and solar parks. Tenders are suggested to be conducted every 12 or 18 months.

2. Legal framework

Technically, the auction scheme can be triggered under different regulations, with the investment law being deemed by the WB as the most appropriate. However, as the current laws of Vietnam do not specifically address this issue, it is advisable that additional guidance to the existing law is issued (*e.g.*, on the bidding process, roles and responsibilities of each entity, deployment schemes and bidding framework).

3. Deployment scheme

The WB suggests two deployment bidding schemes for solar projects, namely the Substation based competitive bidding and the Solar park competitive bidding as follows.

3.1. Substation based competitive bidding:

Key steps:

- Electricity Vietnam (**EVN**) and National Power Transmission (**NPT**) to identify across provinces potential substations with available capacity;
- Ministry of Industry and Trade (**MOIT**)/EVN to announce launch of competitive bidding with substation list;
- Investors to identify land around selected substation;
- Investors to submit their qualification package;
- MOIT along with Provincial People' Committees (**PPC**) and EVN to select shortlisted investors and share the Request for proposal (**RFP**) package to the qualified investors;
- Investor selection; and
- Bidding winner announced, contract signature and permits granted.

3.2. Solar park competitive bidding:

Key steps:

- EVN and NPT to identify potential substations similar to substation-based bidding;
- PPC with the support of MOIT and EVN to identify land around selected substation;

- Solar park preparation prior to launching the bid;
- MOIT/EVN to announce launch of competitive bidding with solar park;
- Investors to submit their qualification package;
- MOIT with PPC and EVN to select shortlisted investors and issue the RFP package;
- Investors to submit their technical and financial proposals;
- Investor selection;
- Bidding winner announced, and contract signature; and
- EVN to build the transmission line to the substation.

4. Roles and responsibilities

The major public actors engaged in the bidding process are the MOIT, Ministry of Planning and Investment, EVN, and PPC in which the substation/local park is located.

5. Bidding framework

The WB puts forward the following underlying proposals:

- a) Bidder qualification: After fulfilling technical specifications, winners should be selected based solely on price.
- b) Payment structure: The payment structure should be fixed in MWh or kWh, not in MW.
- c) Tariff structure: In the short-term, the tariff structure should be fully indexed to foreign currency: As for medium-term, the tariff is set to be partially indexed to U.S. dollars or full payments in VND, depending on the state of the domestic lending market at the time of the tender.
- d) Power purchase agreement (**PPA**) term: The PPA term is preferred to last 25 years.
- e) Change in law: A letter of support from the Government for a change in law should be incorporated in the PPA.
- f) Arbitration: A provision specifying international arbitration of disputes is recommended.

Key contact

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

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