



Asia Counsel Renewable Energy Update

DRAFT DECREE ON ROOFTOP SOLAR PV SYSTEMS

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This article provides an overview of the current regulatory framework for rooftop solar PV development in Vietnam, as well as the key provisions of the draft decree on policies to encourage rooftop solar PV projects recently submitted by the Ministry of Industry and Trade.

Introduction

Vietnam has experienced significant growth in the adoption of rooftop solar photovoltaic (**PV**) systems in recent years. This growth has been driven by government incentives and an increasing awareness of the benefits of renewable energy. In order to facilitate the development of rooftop solar PV projects, Vietnam is putting together a regulatory framework that governs the implementation and operation of these systems.



Current Regulatory Framework

The development of rooftop solar PV projects in Vietnam is primarily governed by the Law on Electricity 2004 (as amended), Decision No. 13/2020/QĐ-TTg of the Prime Minister, and Circular No. 18/2020/TT-BCT of the Ministry of Industry and Trade (**MOIT**). These regulations provide guidance on project development, model power purchase agreements (**PPAs**), and other aspects related to rooftop solar PV systems. Under the current regulatory framework, a rooftop solar PV system is defined as a system that has solar panels installed on the roof of a construction work and has a capacity of not exceeding 1 MW. These systems can be directly or indirectly connected to the grid of 35kV or less. Grid-connected rooftop solar PV projects that have signed PPAs but have not achieved commercial operation date (**COD**) prior to 1 January 2021 are not entitled to the feed-in tariff under Decision 13.

Rooftop solar PV developers have the option to sell the electricity generated from their systems to the Electricity of Vietnam (**EVN**) and/or non-EVN offtakers. However, it is mandatory to adopt the model PPA provided by the MOIT under Circular 18 when selling electricity output from rooftop solar PV systems to EVN.

Regulatory Gaps

While the current regulatory framework provides guidance on many aspects of rooftop solar PV development, there are still some gaps that need to be addressed. These include:

- **Definition of Self-Consumed Solar Power:** There is currently no definition of "self-consumed solar power" or "solar power for self-consumption purposes". This lack of clarity creates uncertainty for rooftop solar PV developers in the context of the National Power Development Plan for the period of 2021 to 2030 with a vision to 2050 (**PDP VIII**) and its implementation plan.
- **Inclusion in Power Development Plan:** It is unclear whether new rooftop solar PV projects must be included in the power development plan. This raises questions about the process for registering and approving these projects.
- **Consistency of Interpretation:** The interpretation of construction laws and regulations by provincial authorities is not consistent. For example, there is inconsistency in the requirements for construction permits and fire prevention and fighting approvals.
- **Land Use Purpose:** It is unclear whether the land use purpose at the premises of rooftop solar PV systems must be converted to energy land or industrial land for project development.

- Commercial RTS Projects: It is unclear whether the pool of 2,600 MW for solar power self-consumption purposes under PDP VIII and its implementation plan also includes commercial rooftop solar PV projects.

Proposed Draft Decree

To address some of these regulatory gaps, the MOIT has proposed a draft decree on mechanism and policy to encourage rooftop solar PV system development for self-consumption. The first draft was formulated in December 2023. An updated draft was proposed to the Government on 9 April 2024. The draft decree is expected to be finalised and issued in October 2024, and subsequently take effect in December 2024.

The new draft decree introduces several key provisions that would impact the rooftop solar PV market if implemented in its current form. These provisions include:

(i) Definition of RTS System

The new definition of a rooftop solar PV system does not mention any capacity threshold. This implies that systems with a capacity exceeding 1 MW may be recognized and accepted within the scope of the draft decree.

(ii) Investment Models

The draft decree distinguishes two rooftop solar PV models: grid-connected systems (or "behind the meter" systems) and off-the-grid systems.

For grid-connected systems, the total capacity must not exceed the planned capacity approved under PDP VIII and its implementation plan (i.e. 2,600 MW). It is possible to export any electricity surplus to the grid on a free-of-charge basis. Any new projects falling within this capacity cap must be registered with the local connectivity agency who will seek opinions from relevant State authorities in relation to investment, trade, construction, fire prevention and fighting and environment aspects of such project.

Off-the-grid systems, on the other hand, are not subject to the approved capacity limit. No electricity surplus from the systems shall be exported to the grid. These systems must align their capacity with the demand for consumption and are not required to be included in the power development plan or registered with local authorities. Notwithstanding, the RTS investor must notify the provincial People's Committee on such project before putting it into operation.





Investment Incentives

The draft decree introduces incentives to encourage investment in rooftop solar PV systems. Some of these incentives include:

- No requirement to convert the land usage purpose for the construction work where the rooftop solar PV system is installed.
- No requirement to include rooftop solar PV projects into the power development plan.
- Tax and fee-related incentives in accordance with tax regulations (generally for projects in disadvantaged areas of Vietnam).

Outstanding Issues

While the draft decree provides a framework for rooftop solar PV investment for self-consumption purposes, there are still some issues that remain unresolved. These include:

- ***Selling Electricity to Non-EVN Customers:*** It is unclear whether legal entities or individuals can develop rooftop solar PV projects to sell electricity to non-EVN customers through private PPAs. The status of existing non-EVN PPAs is also unclear.
- ***Commercial RTS Projects:*** The draft decree does not explicitly address whether commercial rooftop solar PV projects through private PPAs will be covered under the direct power purchase agreement (DPPA) scheme.
- ***Foreign Investor Requirements:*** It is unclear whether foreign investors or foreign-invested companies with more than 50% foreign ownership must register each rooftop solar PV project as an investment project and obtain an Investment Registration Certificate.

Conclusion

The proposed draft decree on policies to encourage rooftop solar PV projects in Vietnam aims to address some of the existing regulatory gaps and provide a clearer framework for rooftop solar PV development. However, there are still outstanding issues that need to be resolved to promote the growth of rooftop solar PV projects, especially in the commercial sector. It is expected that the relevant authorities will address these points in the final draft decree or through separate legal documents to provide a more comprehensive and supportive environment for rooftop solar PV development in Vietnam.

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With over 15 years of experience, Phuong has worked in both domestic and international law companies. Phuong has extensive experience in the energy, infrastructure, and TMT sectors in the areas of M&A, project development, and project finance. She has provided advice on large-scale projects and high-value transactions to international financial institutions, developers, and investors, both local and foreign.

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Phuong holds two master's degrees from Belgium in finance management and the UK in law. She is qualified in Vietnam, England and Wales. Phuong speaks English fluently.

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