

Client Alert

July 2011

Wind Power – Summary of Prime Minister Decision No. 37/2011/QD-TTg

On 29 June 2011, the Prime Minister issued Decision No. 37/2011/QD-TTg providing the development support mechanism for wind power projects in Vietnam (“Decision No. 37”). Decision No. 37 will come into effect as of 20 August 2011.

According to Decision No. 37, the development master plan for wind power will be prepared at the provincial level and the national level. Investments in wind power projects must comply with the approved master plan. Otherwise, investments are subject to the Prime Minister’s approval.

An investor may only commence the construction of a wind power plant after obtaining an investment certificate, signing a power purchase agreement with the purchaser (being EVN or its authorized entities), obtaining a connection agreement with the distributor or transmitter, and collecting wind measuring statistics for at least 12 consecutive months. If the investor does not commence the construction within 12 months without proper reason, the investment certificate can be withdrawn. The investor must also comply with a reporting regime to the Ministry of Industry and Trade (“MOIT”).

Regarding the support mechanism, Decision No. 37 sets out certain principles as follow:

- (i) Power purchase: The purchaser will have to purchase all the power produced within the area that is in its control. The power purchase agreement will be in a set form to be issued by the MOIT and will include a term of 20 years, which can be extended; the basic price and price adjustment mechanism; the provisions on connection, measurement and operation of the plant; and payment;
- (ii) Investment capital: Investors may mobilize capital from domestic and foreign entities and may enjoy incentives in terms of investment credit;
- (iii) Import tax: Imported goods to create fixed assets and imported goods which are materials and semfinished products that have not been manufactured domestically are exempt from import tax;
- (iv) Enterprise income tax: The incentives are the same as those applicable to projects that belong to specially encouraged sectors;
- (v) Land: Land lease and land use fees are reduced or exempted as are those applicable to projects that belong to specially encouraged sectors;

Baker & McKenzie (Vietnam) Ltd.
12th Floor, Saigon Tower
29 Le Duan Blvd
District 1
Ho Chi Minh City
Socialist Republic of Vietnam
Tel: +84 8 3829 5585
Fax: +84 8 3829 5618

Baker & McKenzie (Vietnam) Ltd.
Hanoi Branch Office
13th Floor, Vietcombank Tower
198 Tran Quang Khai Street
Hoan Kiem District, Hanoi
Socialist Republic of Vietnam
Tel: +84 4 3825 1428
Fax: +84 4 3825 1432

www.bakermckenzie.com

Should you wish to obtain further information or want to discuss any issues raised in this alert with us, please contact:

Simon Taylor

+84 4 3936 9404

simon.taylor@bakermckenzie.com

Dang Chi Lieu

+84 4 3936 9341

chilieu.dang@bakermckenzie.com

- (vi) Pricing for wind power connected to the grid: The price at the delivery point will be equivalent to 7.8 US cents/kWh. The State will use the Environment Protection Fund to support the purchaser at 1 US cent/kWh. This support will be phased out gradually. The projects that enjoy this price incentive are not able to enjoy incentives for power output provided under other regulations, however they can utilize the clean development mechanism (CDM) according to the relevant laws;
- (vii) Incentives for wind power projects which do not connect to the grid: Incentives from item (i) to (v) are applicable. The investor will have to determine the total supporting amount from the State's budget to submit to the MOIT for appraisal and forwarding to the Prime Minister for approval.

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