

Clean development in Vietnam

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Vietnam is one of the 183 countries to have ratified and adopted the Kyoto Protocol to the United Nations Framework Convention on Climate Change (“UNFCCC”), which entered into force on 16 February 2005 and intends to achieve “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”.

The Kyoto Protocol defines “flexible mechanisms” such as Emissions Trading, the Clean Development Mechanism and Joint Implementation to allow developed countries in the European Union, United States, Japan, etc. (“Annex I countries”) to meet their greenhouse gas emission targets by purchasing greenhouse gas emission reductions credits from elsewhere, through financial exchanges, projects that reduce emissions, particularly in non Annex I countries including Vietnam.

Vietnam has assigned various State agencies to manage the implementation of the Kyoto Protocol, and put into place a legal framework to facilitate the implementation of the Clean Development Mechanism (“CDM”) in the country.

Vietnam currently hosts two large projects which have been through the whole CDM projects cycle and are registered at the United Nations (“UN”): the Rang Dong Oil Field Associated Gas Project in the province of Vun Tau (gas recovery), and the Wind Power Plant n°1 in the province of Binh Thuan, which will become the first wind turbine plant in South-East Asia.

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At the same time, a certain number of small-scale projects are being implemented. These are mainly hydro-power schemes so far, such as the Song Muc Small Hydro Power Station Project in Thanh Hoa province (the project is jointly implemented by Japanese company Tohoku Electric power and Vietnam’s Agrimeco). Seventy-eight other CDM projects, already approved domestically, are undergoing registration at the UN.

Thus, Vietnam offers today clear and growing investment opportunities in CDM. Below we introduce the main institutional actors and regulatory bodies concerned with the CDM in Vietnam.

Vietnam institutional structure

Department of Meteorology, Hydrology and Climate Change The UNFCCC provides that each party shall designate at least one “national authority” to act on its behalf in the performance of the administrative functions required by the convention. Accordingly, Vietnam has designated the Department of Meteorology, Hydrology and Climate

Change of the Ministry of Natural Resources and Environment (“MoNRE”) as the Vietnamese Designated National Authority (“DNA”) by Decision No. 997/QD-BTNMT dated 12 May 2008.

National Steering Committee for the UNFCCC and Kyoto Protocol

The National Steering Committee for the UNFCCC and Kyoto Protocol (“NSC”) and its Standing Bureau have been established by two decisions of the MoNRE (respectively Decision No. 1016/QD-BTNMT dated 14 July 2007. and Decision No.

1133/QD-BTNMT of 30 July 2007).

The Standing Bureau is responsible for assisting the NSC in drafting and creating documents, policies, measures in relation with reaction plans and programs on climate changes for purposes of implementing the UNFCCC and the Kyoto Protocol.

Vietnam Environmental Protection Fund

The Vietnam Environmental Protection Fund is in charge of monitoring and managing Certificate of Emission Reductions (“CERs”) granted by the CDM Executive Board for CDM projects implemented in Vietnam.

Vietnamese legal provisions on CDM projects General Criteria of CDM projects:

A CDM project is defined as “an investment and production project under which new, advanced and environmentally friendly technologies are applied, and for which greenhouse gas emissions reductions are approved or registered and are certified by the CDM Executive Board”.

A CDM project must satisfy the following conditions:

- It is formulated in accordance with the current investment law, ministries’, branches’ or localities’ development strategies or plans, and contributes to Vietnam’s sustainable development;
- It is formulated and performed voluntarily by the investor and observes Vietnamese laws and treaties to which Vietnam is a contracting party;
- It is feasible with advanced technologies and suitable financial sources; it does not use official development assistance (ODA) or state budget investment capital to obtain CERs for transfer to overseas CDM project investors;
- It brings about real and additional reductions in greenhouse gas emissions which are measured, inspected and supervised according to specific plans;
- It has an environmental impact assessment report;
- It has been registered with and approved by the CDM Executive Board;
- The process of project execution does not give rise to new responsibility on the part of the Vietnamese government, compared with the responsibilities defined in the Kyoto Protocol;
- It is formulated in a proper order and according to procedures prescribed for a CDM project, for which it is granted a letter of certification or a letter of approval by MoNRE.

In practice, the most likely sectors for CDM projects in Vietnam, with promising investment prospects, are renewable energy (hydropower and wind), biomass and biogas (residues from sugar, rice, wood production, agriculture), waste and waste water treatment (landfills, animal farms, tapioca starch), fossil fuel switch (food, beverage, iron, steel, pulp, paper, rubber, wood), and energy efficiency (in both industry and buildings).

Given Vietnam’s critical need for waste treatment solutions and new sources of energy, the



favorable conditions for hydro-based power make the country a highly attractive destination for CDM projects.

Implementation procedures for CDM projects

The procedures for implementing a CDM project are generally divided into the following phases (Project Cycle):

- preparation of Project Idea Note (“PIN”). The PIN is a primary document prepared and submitted for the purposes of confirmation of the planned CDM project to the DNA and serves as (1) a mechanism of introduction of the project to the relevant environmental authorities on both a local and a central level and also as (2) an approval in principle for the project.
- Preparation of project design document (“PDD”). The PDD is the main technical document prepared and submitted for the assessment of a potential CDM project.
- Domestic approval. This approval process on the PDD takes 55 days. If the PDD is accepted by the NSC, the DNA will issue the letter of approval on the project which will lead to registration of the project at the UN.
- Validation and registration. After domestic approval, the owner of the proposed CDM Project should contract with a Designated Operational Entity (the “DOE”) for independent evaluation and validation of its project activities. If the DOE determines that the proposed project activity is valid, it should request the CDM Executive Board to register the project as a CDM project.
- Three DOEs operate in Vietnam and provide such evaluation services: Det Norske Veritas Certification AS; TUV SUD Industrie Service GmbH; and TUV NORD CERT GmbH.
- Monitoring, verification and certification. Implementation of the monitoring plan as proposed in the PDD is a condition for the subsequent verification and certification of the monitored reductions in anthropogenic emissions by sources of greenhouse gas which have occurred as a result of the activity of the registered CDM project during the verification period by a DOE for purposes of issuing CERs to the project owner.
- Issuance of CERs. Upon instruction by the Executive Board to issue CERs for a registered CDM Project, the administrator of the CDM Register will issue the specified quantity of CERs equal to the verified amount of reductions of anthropogenic emissions by sources of greenhouse gas. After receipt of the administrative expenses of the CDM Executive Board, the CDM Registry will forward:
 - The quantity of CERs corresponding to 2% of the issued CERs for assisting developing countries that are particularly vulnerable to the adverse effects of climate change (the “Share of Proceeds for Adaptation”) to the relevant account for holding and transferring the Share of Proceeds for Adaptation; and
 - The remaining CERs to the accounts of the relevant parties and project participants in accordance with their request.

Sales of CERs :

Once granted CERs, a company may sell them off-



shore based on the following procedure.

Registration :

The company must report the quantity of CERs to the MoNRE within 15 days from the date of their granting, receipt or distribution. In the event of a change in reported CERs, the project owner must re-register the changes within 10 days after the change.

Fee on sales of CERs:

A fee must be paid to the MoNRE and is determined as follows:

Fee = the Fee Rate (%) x Quantity of CERs sold or transferred offshore x CERs unit price (Viet-

namese Dong)

The Fee Rate is between 1.2% and 2% of the total selling price of CERs, depending on the domains the project falls under.

The CERs selling unit price is based on an established agreement with regards to CER sales, or on the prevailing market price.

As the regulations mentioned above have been introduced quite recently, it is as yet unclear what incentives potential CDM investors may enjoy since there are outstanding discrepancies between CDM regulations and other laws. These will be analyzed case by case for each project.