

The logo for VDB | Loi, featuring the letters 'VDB' in a bold, sans-serif font, followed by a vertical bar and the word 'Loi' in a serif font.

Legal and Tax

VIETNAM NATIONAL POWER DEVELOPMENT PLAN

What is key for energy developers
and investors

May 2023

VDB LOI IN VIETNAM

VDB Loi has been operating in Vietnam since **2013**. Our practice concentrates on the natural synergies that exist between legal and tax. We solve our clients' issues by knowing their business, their industry and seeing the broad picture of doing business in Vietnam.

A combination of Vietnamese and international experts in our team allows us to provide in-depth local law and tax advice that takes into account modern international standards and approaches, thus anticipating clients' expectations and helping them reach their goals in the most efficient manner.

Our advice is relied upon by international and development financial institutions for some of the region's largest ever financing transactions. Multinationals often choose us for multibillion dollar investment projects in a wide range of sectors.

We have particularly strong expertise in Energy and Infrastructure, Project Finance, Real Estate, TMT, and Tax. VDB Loi also provides ongoing support to its clients at all stages of their investments in Vietnam, from initial market entry, business set up, and obtaining regulatory approvals, to continued compliance with reporting and filing requirements.

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Summary of key points:

- Power Development Plan VIII (PDP or PDP 8) has been approved, and it can be expected that many official decisions (including on initiation of the projects) that were pending approval of PDP 8, will now be finalized and issued.
- As anticipated before, there is a very substantial push and priority given towards energy from renewable sources.
- PDP 8 lists some, but not all energy projects to be implemented ([link](#)). In particular, wind projects are not yet listed. Additional **implementation plan** (scheduled to be issued in June 2023) is expected to cover those.
- PDP 8 is a general policy document, and as such does not yet address precisely some commercial matters, e.g. tariff to be applied to new projects, and any changes/updates of the standard forms of PPAs. Further legislative developments are expected on this. In particular, **amendments to Electricity Law** and new **renewable energy law**.
- PDP 8 also envisages that further guidance and procedures will be adopted to regulate the process of investor selection for new projects (e.g. via bidding process).
- PDP 8 includes expected shares that different sources of energy will take in the Vietnamese energy market by 2030 and 2050. This is a very important source of long-term guidance for investors into the energy sector in the country.

1. Why Power Development Plan is important and which information you can find in it

In Vietnam, the Power Development Plan is an official policy document that serves as a strategic roadmap outlining objectives, targets, and guidelines for the growth and advancement of the electricity sector within a specified timeframe. It acts as a comprehensive framework for:

- a. decision-making; and
- b. project implementation

in the electricity industry.

The previous power development plans, namely PDP7 and PDP6, were approved in 2016 and 2007, respectively. PDP7 covered the period from 2011 to 2020, with a vision extended to 2030. PDP6 spanned the period from 2006 to 2015, with a vision extended to 2025.

The PDP comprises two main components: the National Power Development Plan and the Provincial Power Development Plan.

The National Power Development Plan is designed for a ten-year period until 2030 with a long-term vision extending to 2050 and sets out the overarching goals and strategies for the development of the national electricity sector. On the other hand, the Provincial Power Development Plan is derived from the National Power Development Plan and is developed for a five-year period, outlining specific plans and actions at the provincial level to align with the national objectives.

The PDP 8 consists of three volumes¹:

- Volume I: General Description - Provides an overview of the national electricity status, socio-economic conditions, criteria for planning, renewable energy, power grid development, and environmental considerations.
- Volume II: Appendices - Includes calculations and financial analysis related to

1 Decision 1264/QĐ-TTg

load forecasting, power source development, and power grid development.

- Volume III: Geographic Drawings - Contains geographical drawings illustrating the national power system during the planning period.

2. Is my project included into the Power Development Plan?

The Law on Investment² and the Law on Public-Private Partnership Investment³ emphasize the fundamental principle that projects must conform to national plans to be implemented in the country.

The PDP, as stipulated in the Law on Planning and the Law on Electricity, is a critical national plan that provides guidance and regulations for the **electricity sector**. Thus, being included in the PDP is essential for initiation and carrying out of investment procedures in for energy projects Vietnam.

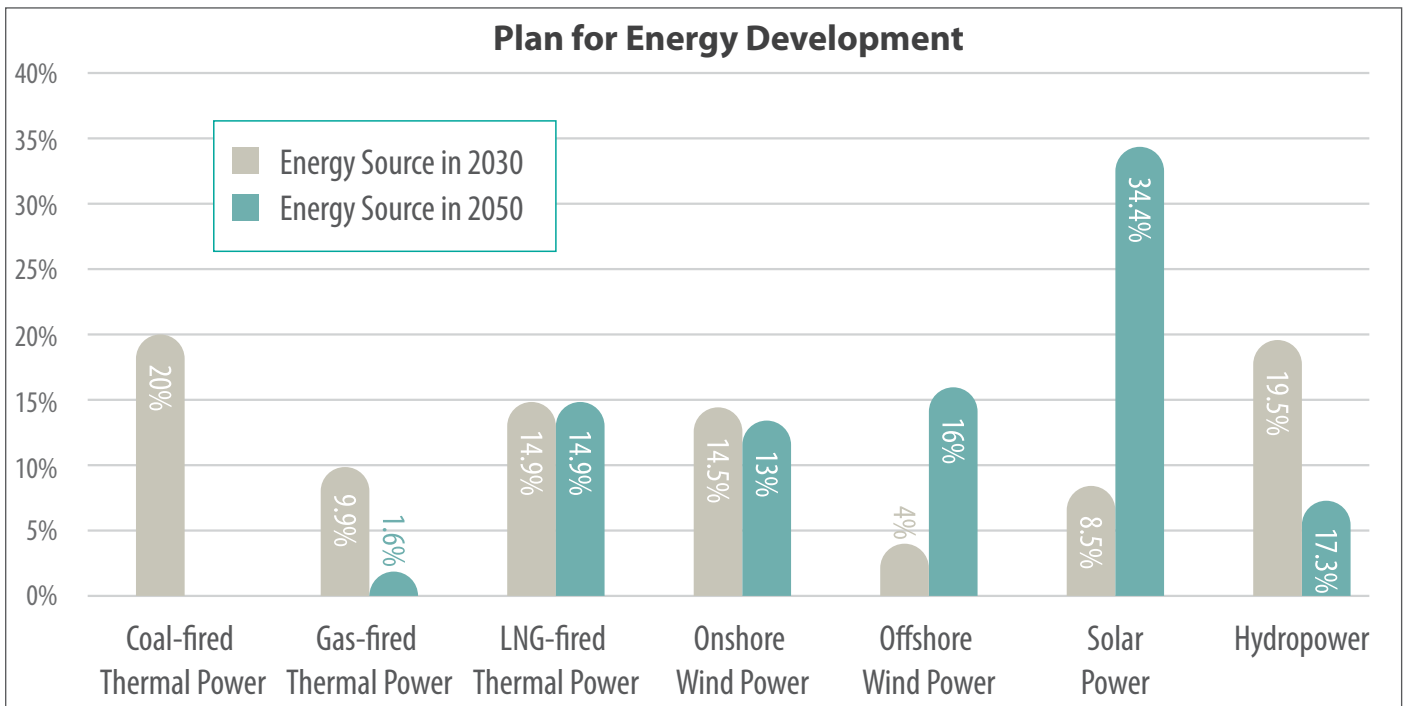
Decision 500/QĐ-Ttg, which approves National Power Development Plan 8, includes lists of prioritized projects that are part of the PDP 8. These lists comprise various types of projects, such as **hydropower** plants, **solar** energy installations, and **thermal** power plants. Please refer [here](#) for the extract from Decision 500 / QĐ/Ttg with such list of projects (in Vietnamese).

However, no **wind** power projects were specifically mentioned. It is expected that the **Implementation Plan which is scheduled to be issued in June**, will provide more comprehensive details and guidance regarding the inclusion of wind power projects in the PDP 8.

It should also be noted that there were precedents of adding new projects into the approved PDP in the past.

By way of illustration, Decision 428/QĐ-TTg revised PDP VII in 2016, and the Prime Minister made additional adjustments in 2020 through announcement No 795/TTg-CN to address the demand for wind projects in provinces.

2.1. Energy transition long-term plan outlook



Data based on Decision 500/QĐ-TTg dated May 15, 2023

² Article 42 of the Law on Investment

³ Article 7 of the Law on Public-Private Partnership Investment

Advancements in Wind Power: Both onshore and offshore wind power capacities are projected to increase substantially. By 2050, the offshore wind power capacity is expected to see significant growth. However, it is important to note that at present, the market access for foreign investors in offshore wind power projects is subject to certain conditions. The promotion of offshore wind projects in PDP 8 instills optimism for a more transparent and flexible pathway investments in off-shore wind project.

Expanding Solar Power: As stated in the PDP VII, that the projected solar power capacity is set to reach 12,836 MW by 2030. To achieve this ambitious goal and reduce grid loads, PDP 8 encourages the utilization of rooftop solar power generated and consumed on-site, without exporting excess electricity to the national grid. Achievement of these targets may require incentives to encourage individual participation.

Transition Away from Coal: The development direction involves exploring unconventional and non-traditional energy sources. This includes harnessing the potential of biomass, waste-to-energy, hydropower, and energy storage technologies. These sources offer opportunities for increasing capacity and ensuring a balanced energy supply. It is noticeable that by 2050 the coal-fired thermal power will be no longer exploited. This transition involves updating processes to replace coal-fired power plants with LNG-fired thermal power plants or renewable energy sources.

2.2. Project Development Prioritization

Unlike the PDP 7, in order to ensure flexibility, the PDP 8 only provides an overall expected capacity and prioritizes certain projects. Following the approval of PDP 8, the Ministry of Industry and Trade will proceed with developing an implementation plan as noted above. This plan will serve as a foundation for determining the capacity and specific locations of projects, as well as the selection of investors.

The PDP 8 Implementation Plan is scheduled to be submitted for approval to the Prime Minister in June.

Investors should pay attention to this Implementation Plan, as it should offer valuable information regarding the determined locations and scales of power projects in each region. With the approved Implementation Plan as a guide, investors can proceed with selecting suitable projects for investment.

2.3. Investor selection

In PDP 8, the bidding process is emphasized as a vital step in selecting investors for power projects. According to the Law on Investment, power projects utilizing land must undergo bidding to select investors, unless the land use rights have already been auctioned in compliance with the Land Law.

Before proceeding with investor selection through bidding



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projects requiring land use must first obtain approval for investment policy, except in cases where such approval is not required. However, as for power projects in the PreFS and FS stages that have not yet received approval from the competent authorities, there has yet been specific regulation to be followed.

The PDP 8 requires a comprehensive guidance that clarifies the regulations and principles of investor selection. This is expected to ensure transparency and certainty for investors, minimizing any potential uncertainties or delays in their ongoing projects.

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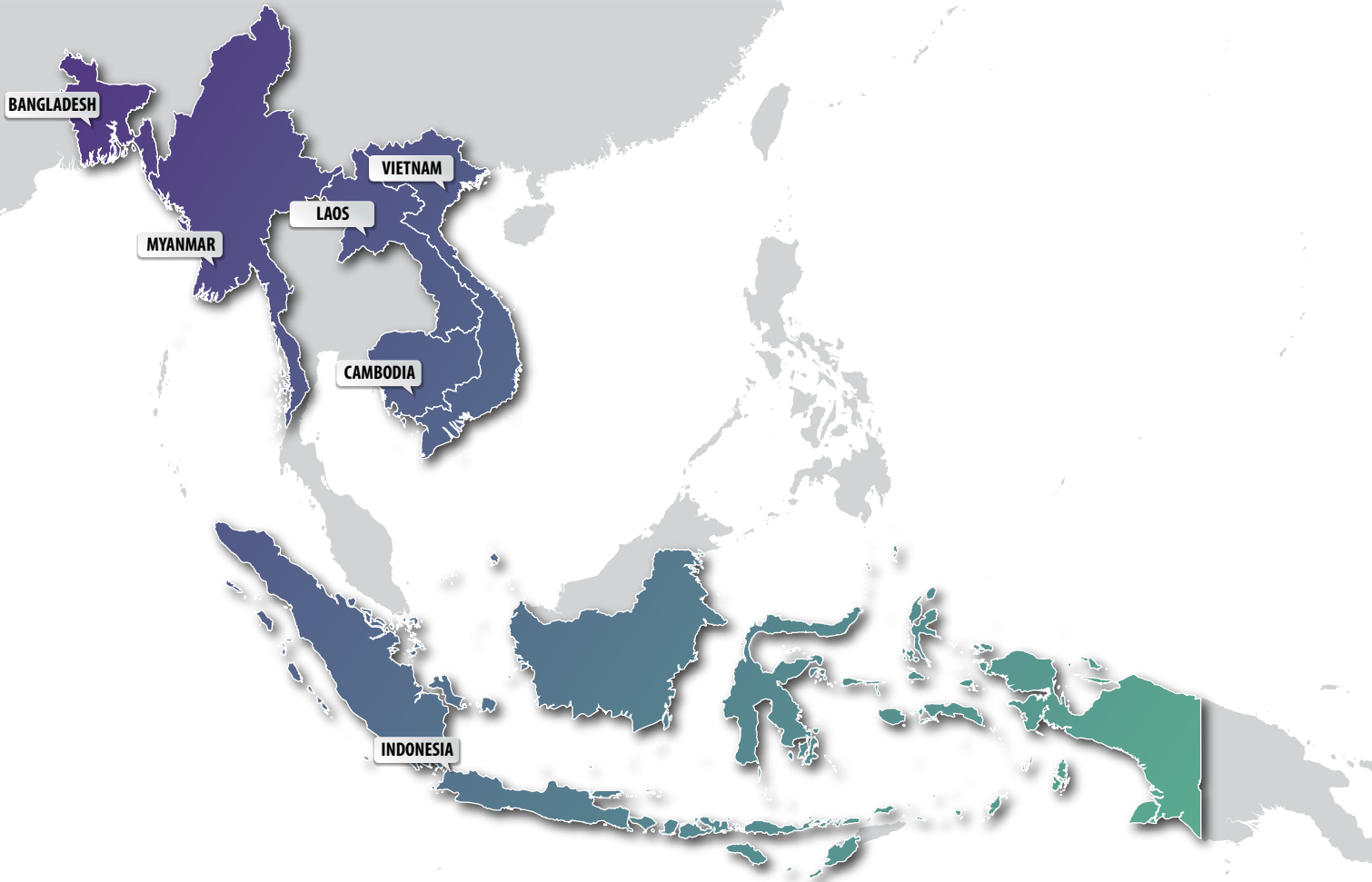
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