

**Low carbon development in the industrial sector
with Ministry of Industry and Trade,
Department of Science, Technology and Energy Efficiency**

Development Engagement Document

Annex E to

**Energy Partnership Programme between Viet Nam and Denmark
Development Engagement 3**

May 16th 2017

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1 INTRODUCTION

The present development engagement (DE) document details the objectives and management arrangements for the development cooperation concerning “Low carbon development in the industrial sector” with the Ministry of Industry and Trade (MOIT), Department of Science, Technology and Energy Efficiency (DoSTEE) of the General Directorate of Energy (DGE) for the period from July 2017 to June 2020 as agreed between the parties specified below. The development engagement document is an annex to the Bilateral Agreement with the Implementing Partner and constitutes an integrated part hereof together with the documentation specified below. This DE with DGE is part of the support provided through the Energy Partnership Program between Viet Nam and Denmark. The Partnership Programme with Viet Nam is embedded in the Danish Energy Agency (DEA) Energy Partnership Programme (DEPP) supported by the Danish Climate Envelope focusing on four countries including also China, Mexico and South Africa.

2 PARTIES

The Danish Energy Agency
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and

The Ministry of Industry and Trade (MOIT), General Directorate of Energy.
[insert address]

3 DOCUMENTATION

The partner documents that support this intervention are:

1. The Law on Energy Efficiency and Conservation (Law No.: 50/2010/QH12)
2. The Viet Nam Energy Efficiency Programme
3. The draft National Program on Energy Efficiency for the period 2016 - 2020.

4 BACKGROUND

Energy demand in the industrial sector in Viet Nam is growing very fast. In 2013 it stood at 46% of total demand, and the industry share of total energy demand is expected to further increase. Industrial energy intensity is the highest among the neighbouring countries. Furthermore, despite a large available potential for renewable energy from sources such as biomass and solar energy, the industrial sector of Viet Nam is very fossil fuel intensive.

Viet Nam has quite a comprehensive policy on the promotion of energy efficiency (EE), particularly with regards to large energy intensive industries. However, as recent reviews of the impact of the law and policies have shown (e.g. the World Bank Benchmarking Study, the White Paper on Viet Nam SMEs 2014, the reports of the ongoing DK-VN ‘Low Carbon Transition in Energy Efficiency sector in Viet Nam’ programme (LCEE); and, the report on the 5-year implementation of the Law on Energy Efficiency and Conservation), the impact of the policies has been limited as compared to the improvement potential in industry. For example, the energy auditing scheme provides only limited results, the

compulsory reporting by designated enterprises on energy consumption as well as energy savings plans is poorly implemented, and compulsory energy management systems are implemented only in a fraction of enterprises obliged to do so. In addition, there has been very little government support to encourage conversion from fossil fuels to renewable energy. Lack of compliance with the Law on Energy Efficiency and Conservation (LEEC) has been attributed to limited access of industries to investment finance and lack of necessary expertise among industrial suppliers and operators but the studies have also shown that local authority reluctance and/or inability to enforce the law has been a major factor.

This engagement is built on the experiences of the ongoing LCEE program, particularly the sub-components of local policy development and the Green Investment Facility. These two engagements have revealed an urgent need for a strengthened policy and regulation framework.

According to the LEEC, GDE presides over coordination with relevant ministries in issuing norms and technical regulations on energy use for industries and, at the provincial level, should provide guidelines and templates to designated energy users for the development and implementation of annual and 5-year plans. The DoSTEE is a dedicated unit in the GDE leading the implementation of the government energy efficiency management and the energy efficiency and conservation laws, decrees, and regulations.

GDE is aware of the potential for energy efficiency in industry and has given considerable attention to the issue. A number of policy revisions is being considered by GDE, such as adoption of regulation particularly addressing the more than 300 industrial zones, strengthening of the reporting from the designated enterprises and others. However, the leadership of GDE is aware that these suggestions need to be made more rigorous by a more thorough analysis of the weaknesses and shortcomings of the current regulation and implementation framework. The Minister of Industry and Trade recently confirmed that “improvement of economic efficiency via ... innovation of energy-use technologies ... to ensure overall effectiveness in energy efficiency and conservation according to the Law on Energy Efficiency and Conservation (LEEC)” would be a priority of GDE in the immediate future.

A recent analysis of the 5 years of implementation of the LEEC suggested that the law be revised. Accordingly, a proposal to initiate reform of the law and associated decrees has been prepared for government approval. Experience of the reluctance of other government entities to enforce, and of enterprises to comply, with low-carbon provisions suggests that strong evidence will be needed to secure agreement to a significant strengthening of the low-carbon policy and legal framework. GDE also needs better capacity to analyse why enforcement and compliance at the provincial level has been so weak and how it can improve the legislative support it provides to the decentralised authorities.

The proposed outputs from the DE assist in setting the basis and direction of such reform as well as formulating some of the necessary legal instruments directly. Reform of the structure of MOIT is currently under consideration so that it is better able to address this and other immediate priorities but its mandate for energy efficiency will remain unaltered and it is expected to continue to have more than 20 staff allocated to energy efficiency, environment and climate change. If the restructuring is carried out these staff will be led by

the Leader of the department in charge of an Energy Efficiency and Sustainability Department who would be the immediate partner responsible for implementation of the DE. The leadership of GDE takes a holistic view of the need to transform energy use patterns in industry and will therefore focus future interventions on “low carbon” rather than just EE or RE. The DE therefore targets low carbon energy systems.

At provincial level implementation of LEEC is the responsibility of the Department of Industry and Trade (DOIT) which is the local office of MOIT in each province. They keep registers of power intensive industries within the province. Enterprises on the register are required to monitor their energy usage, carry out energy audits and report the results to DOIT. DOIT can undertake spot checks to ensure that reports are accurate. They then compile the results and provide yearly reports to GDE on energy consumption and the measures taken by industry to increase efficiency.

Other Development Partners (EU and World Bank) undertake activities in the area of energy efficiency (mainly the provision of investment funding) but are not currently directly involved in policy or regulatory adjustment. A mechanism for coordination of Development Partner activities in the energy sector, the Viet Nam Energy Partnership Group, is being established which would serve to facilitate identification of opportunities for synergy. Moreover, a facility for providing technical assistance (TA) to meet needs in the energy sector is being set up with EU funds, co-funded and administered by GIZ, which could be a source of funding for additional support for capacity development identified by the DE.

There are civil society entities in Viet Nam, albeit closely aligned to government, which have been involved in analysis of implementation of the LEEC and constitute a resource to assist in research, training and information dissemination. The Viet Nam Science and Technology Association of Energy Conservation and Efficiency (VECEA) in particular has 400 members, including energy efficiency centres in provinces, local government departments and individual academic experts.

Considering the above, GDE has requested support from the Danish government to leverage Danish experience of low carbon transition in industries to inform and shape a strengthened policy and regulatory framework for Viet Nam.

5 DEVELOPMENT ENGAGEMENT OBJECTIVE

The objective of the wider Energy Partnership Programme between Viet Nam and Denmark is that most cost-effective opportunities for low carbon transition in energy system are more widely adopted throughout Viet Nam. This objective is in alignment with Viet Nam’s Plan for Implementation of the Paris Agreement and the Viet Nam National Green Growth Strategy. The particular objective for this DE is to facilitate the development of a less carbon intensive industry sector by working with the GDE to revise regulation of the industry sector and focus national efforts to respond to low cost opportunities.

The DEA will base the actual support on progress attained in the implementation of the engagement as described in the documentation and underlying regulatory framework.

Progress will be measured through the GDE's monitoring framework, the Climate Change Envelope (CCE) indicators, and some specific indicators developed for this DE.

6 THEORY OF CHANGE

The targeted outcome of the development engagement is a strengthened implementation framework for provincial level to target the most cost beneficial opportunities for low carbon development in industry and a capacity development plan for building more coherent and consistent regulatory framework contributing to industrial low carbon development.

The theory of change is that there is already convincing evidence showing that low-carbon transition in sections of Viet Nam's industry will have significant benefits to the sustainable economic development of Viet Nam. Compilation and effective dissemination of this evidence will help in generating a consensus among key stakeholders on policy and legislative change to support low carbon transition. It will also provide better capacity within GDE to better comprehend relevant focus areas (technologies, sectors etc.) for a new, more comprehensive version of the LEEC and associated regulatory instruments. In parallel, investigations, consultations and joint learning sessions in targeted provinces will generate a better understanding of the challenges DOITs face in enforcing the LEEC, and the other barriers to compliance. This information will then be used to assist the redrafting of selected, high impact national regulatory instruments that addresses weak spot in the current framework where there is a large potential for energy conservation and to help GDE work with the target provincial stakeholders to draft legal instruments, guidelines, enforcement strategies and templates that will increase compliance. The piloted regimes can then be adjusted based on initial results and rolled-out to the rest of the country. This roll-out is achieved by implementing a capacity development plan aimed at the DOIT which is to be executed by GDE. As a result, compliance rates with the legal requirements will increase. Regulators and industries will be further incentivised to make the transition and low-carbon technology will become well established in Vietnamese industry.

The change logic rests on the assumption that GOV retains its commitment to a low-carbon transition, and that this commitment is reflected in key planning documents as well as in resource allocation to responsible ministries and local government. The commitment of GOV is strong, however, arising from compelling strategic concerns in the energy sector. Moreover, the unnecessarily energy and carbon intensive energy demand in the industrial sector is a considerable economic burden on the society. It is also assumed that industries can be brought to compliance through a combination of persuasion and regulatory pressure, despite the barriers presented by the need to invest and to find qualified suppliers of goods and services.

The engagement will be executed in close cooperation with GDE as well as other key stakeholders, such as industrial representatives and DOITs of two selected provinces. Findings of the engagement will be shared with key stakeholders on a regular basis, and the feedback from these will be integrated into the implementation of the project. Experiences from the ongoing interventions of GIZ, ADB etc. will be utilized to inform the work and close communication with these projects will be maintained to ensure that opportunities for synergy are fully exploited.

7 RESULTS FRAMEWORK

For Danida's reporting purposes the following key outcome and output indicators have been selected to document progress. Detailed indicators for each output will be revisited and potentially refined as part of the inception, where the baselines and targets, will be adjusted with reference to prevailing knowledge and the Climate Change Envelope guidelines for monitoring:

Outcome		Strengthened implementation framework for energy efficiency in industry A strengthened implementation framework for provincial level to target the most cost beneficial opportunities for low carbon development in industry and a more coherent and consistent national level regulatory framework contributing to industrial low carbon policy.	
Outcome indicator		Pending approval by legislators as required, revised legal/regulatory instruments (circulars, decrees, Ministerial decisions, guidelines, reporting templates) issued and/or implemented in at least one province.	
Baseline	Year	2017	The present national regulatory- and local level implementation framework is not sufficiently stimulating release of low carbon potential in industry.
Target	Year	2020	Revised legal/regulatory instruments issued/implemented
Output 1		Proposal for improvement of the national-level low carbon regulatory framework for industry Possibilities for improvements of the national EE policy framework is recognized by GDE including an in-depth understanding of the benefits and potentials of low carbon development as well as of the prevailing barriers that prevent or retard such development.	
Output indicator		Tangible inputs for improvement of national-level low carbon regulatory framework addressing weak spot identified and proposing key legal/regulatory instruments to put in place, provided to GDE.	
Baseline	Year	2017	National regulation in need of revision
Target	Year 1.5	2018	Consultation by GDE of draft inputs is ongoing
Target	Year 3	2020	Tangible inputs to a strengthened national regulatory framework provided
Output 2		Development of low carbon legal instruments for industry at provincial level More efficient instruments in place strengthening the local regulatory- and implementation framework and local authority opportunities to enforce including through implementation of new, more specific guidance documents and tools.	
Output indicator		New/revised low carbon regulations and guidance for industry at local level issued	

Baseline	Year	2017	Present-day regulation is not sufficiently powerful
Target	Year 2	2019	Final draft of new/revised regulation ready for legislators
Target	Year 3	2020	Improved EE regulations and guidance for local level issued
Output 3		National institutional capacity to ensure implementation of legal instruments is strengthened Building on the preliminary results of output 1 and 2 a detailed plan to be executed by GDE for institutional capacity development at local level to interpret national regulations and skills to design strategies and procedures to implement regulations on the ground is developed.	
Output indicator		Costed Capacity Development Plan developed	
Baseline	Year	2017	No Capacity Development Plan
Target	Year 1.5	2019	Inputs from Output 1 and 2 provides sufficient basis for initiating development of Costed Capacity Development Plan
Target	Year 3	2020	Implementation of Capacity Development Plan 1st Year initiated.

8 RISK MANAGEMENT

The major risks of the development engagement are that:

Provincial level authorities do not give the appropriate priority to enforce energy efficiency regulations on their local industries. The barriers to effective enforcement include more than just the legislative tools and guidance to be provided by this engagement. Some provincial authorities are reluctant to enforce because they are concerned that industry productivity will be affected with consequent effects on the local economy. The risk is low, because the pilot provinces for the engagement will be selected based, in part, on their demand for support and because part of the capacity development is to develop awareness of the economic and environmental advantages of low carbon technology.

MOIT may give less attention to low carbon initiatives in the future. The engagement has been designed with the forthcoming restructuring of MOIT in mind and the concomitant increased attention to low carbon and environmental aspects by the MOIT. Failure to implement the change may also signal reduced emphasis on sustainability aspects of energy and power production. The risk is low because the restructuring process is quite well advanced and, in any event, the staff and senior managers responsible for energy efficiency are already in place and committed to the engagement objective.

Delays in revision of the LEEC may impact possibilities for revising decrees, executive orders etc. The engagement has been designed to build on the momentum created by plans to revise the overall legal framework for EE in Viet Nam, the LEEC. Yet delays in this process could also impact possibilities to revise and develop supporting decrees and executive orders. The Engagement will need to adapt to the national political process and outputs might in fact

become much needed input to a national political process that could last several years beyond the Engagement.

The experience developed during the case studies in the two provinces is not seen as directly relevant to other Provincial DOITs and therefore the engagement is not as efficient as intended because the replication is limited. The risk is low and mitigated by developing implementation plans and guidelines rather than addressing specific problem areas. Also, the target provinces will be selected based upon their ability to provide a representative range of issues and problems that are relevant in many locations in Viet Nam.

Insufficient funds available to GDE to initiate the Costed Capacity Development Plan and therefore Output 3 cannot be implemented by GDE. The risk is low as GDE is already well-aware of capacity development needs and is mitigated by developing implementation plans that is based on the likely budget that will be available and can be combined with other capacity development activities targeted DOITs.

Common risks such lack of partner absorption capacity and changes in overall government policy were addressed as part of programme design. Any residual risk and new potential risks will be monitored closely throughout implementation and measures to address any arising issues will be developed as necessary and findings included in the regular reports.

9 INPUTS/BUDGET

Outputs	Funds contributed by Denmark	Partner Contribution in-kind
1. Proposal for improvement of the national-level low carbon regulatory framework for industry	2,275	6,000
TA travel costs etc. in DKK '000	219	
Delegations to Denmark in DKK '000	200	
Other costs in DKK '000	70	
TA from DEA	572	
TA from other international experts	864	
TA from local consultants	350	
TA from LTA	180	
2. Development of low carbon legal instruments for industry at provincial level	2,198	6,000
TA travel costs etc. in DKK '000	234	
Delegations to Denmark ,in DKK '000	0	
Other costs, in DKK '000	70	
TA from DEA	572	
TA from other international experts	972	
TA from local consultants	350	
TA from LTA	180	
3. National institutional capacity to ensure implementation of legal instruments is strengthened	2,297	7,000
TA travel costs etc. in DKK '000	236	

Delegations to Denmark ,in DKK '000	250	
Other costs, in DKK '000	70	
TA from DEA	624	
TA from other international experts	768	
TA from local consultants	350	
TA from LTA	180	
Project Management Unit (PMU)for overall DE		Office space: 20 m2 PMU officer: 1000 hours
GRAND TOTAL in DKK '000	7,310	

10 MANAGEMENT ARRANGEMENT

The parties have agreed to the following management arrangement with the aim to ensure adequate dialogue and timely decisions regarding this development engagement.

The development engagement is anchored in the GDE Department of Science, Technology and Energy Efficiency that has the overall responsibility for implementation of the engagement. The daily implementation is the responsibility of the leader of this department.

A Development Engagement Implementation Group, hereafter called the Implementation Group, managing daily implementation of the development engagement will be headed by a person from the partner institution and consist of the international Long Term Adviser posted with MOIT, the EDK programme officer, the DEA country coordinator/DEA expert and partner specialists as required. The Implementation Group will guide daily implementation and meet on a needs basis, and will: i) develop annual and detailed half-yearly work plans for the DE, matching priorities in the partners work plans, ii) associated with the detailed half-yearly work plan determine need for Technical Assistance (TA) inputs from DEA experts and from national and international TA through development of a TA provision plan; iii) endorse inputs based on TOR prepared at output level; iv) monitor day-to-day progress of DE implementation. The head of the Implementation Group reports on DE outputs to the Management Group.

A Management Group is established with representatives from the partner institutions at senior operational level, LTA, DEA-representative(s) and EDK representative. The Management Group will be led by DEA country coordinator, EDK programme manager and MOIT Programme Director. The Management Group follows progress, approve work plans with associated TA procurement plans to be reported to the Steering Committee (annual), advises the Steering Committee and is a forum for technical level policy dialogue. This group will meet at least twice per year and have the responsibility to: i) consolidate and check annual and detailed half-year work-plans with associated TA procurement plans against development engagement partners work-plans and budgets; ii) monitor and report performance progress at output level, using the “traffic light” system; iii) ensure cross fertilization between engagements. Decisions are made by consensus.

The Steering Committee is established and expected to meet once or twice per year. The Steering Committee should be co-chaired by Vice Minister of MOIT and the Danish Ambassador to Viet Nam and include a representative from Danish Energy Agency and heads/deputy heads of departments for the development engagement partner institutions. Its main task will be to approve annual work plans, budgets and reports, and review annual progress. The Steering Committee should provide strategic guidance to the Partnership Programme, discuss and resolve issues related to program progress and decide on any reallocation between the Development Engagements. Decisions are made by consensus. Also, the Steering Committee is a forum for high level policy dialogue on matters of relevance to the programme.

Implementation arrangements

At implementation level the DE partners are responsible for implementation of the DE with DEA being responsible for providing the necessary and timely resources to deliver the outputs, according to the output-based budget and along the request for TA from the DEs. Each DE partner has, at output level, dedicated partner specialists, assisted by DEA that provide inputs to the annual and half-yearly work-plans, and proposed needs for provision of TA. This includes formulating detailed Terms of Reference and specific TA profiles and time-input required to deliver the outputs. Provision of TA should be based on the principles of a) DEA experts where peer advice is required; b) national TA where relevant and; c) international specialists where dedicated specialist tasks will be needed.

DEA is also responsible for coordination of inputs from Denmark and for approving deliverances from external service providers.

In addition to national and international short term TA the programme will finance a Long Term Adviser to be placed in MOIT. MOIT will arrange and finance project office facilities. The LTA will have primary focus on DE 1 with MOIT, but will also support the other development engagement including assist with coordination on the Vietnamese side of TA-missions from Denmark, and facilitation of data sharing across programme and beyond. The LTA would also use any opportunity to encourage partners (as duty bearers) to ensure consultation of relevant DE outputs with right holders – civil society organizations, private sector investors and other relevant stakeholders. The LTA will also support integrated policy dialogues.

At the Embassy of Denmark (EDK) a programme officer will coordinate programme implementation and facilitate inputs from Denmark. The programme officer will also participate in meetings of the Implementation Group as needed.

11 PROCUREMENT AND FINANCIAL MANAGEMENT

This development engagement will have no cash transferred or disbursed directly to the development engagement partner. Hence, there are no requirements for accounting of funds and financial reporting at development engagement level. However, based on the agreed annual workplan the international and national adviser inputs will be budgeted and agreed in terms of days delivered in country. The bi-annual progress reports will include the actual time spent for each TA input to monitor the use against agreed TA budget.

Procurement of agreed international TA (in any form) will be carried out by DEA and follow Danish procurement rules/drawn from a pool of experts. Final selection will be done in close cooperation based on no objection from the Implementation Group.

Procurement of agreed national specialist TA, not covered by the above, will be carried out by the EDK in consultation with DEA, and follow Danish procurement rules for local procurement of TA. Final selection will be done by in close cooperation with the Implementation Group.

Recruitment of the Long Term Adviser (LTA) follows procedures of the Danish Ministry of Foreign Affairs. Representatives from MOIT will be part of the recruitment panel together with representatives from DEA, EDK and MFA.

Study tours will be paid for by the partnership programme with Viet Nam. This includes airfares, accommodation and daily allowances. DEA, through the EDK, will arrange all bookings of airfares, hotels, transport and other practical arrangements. Daily allowances for the entire trip will be paid out by the EDK in cash upon departure following EDK procedures for appropriate documentation. Workshops and seminars in Viet Nam will be paid for by the partnership programme through EDK, based on appropriate quotations approved by EDK and documented expenses. Sitting allowance for any workshop or meetings will be paid for out of partners own budgets.

12 MONITORING AND EVALUATION

Daily progress will be followed by the Implementation Groups who will report progress towards outputs and outcome of this engagement through bi-annual progress reporting to the Management Group that consolidate reports across the programme and report this to the Steering Committee at annual or bi-annual Steering Committee meetings. The Management Group will also provide an Annual Progress Report to be approved by the Steering Committee. All reporting should, to the extent possible and when relevant, be disaggregated by gender, area, sector, etc. forwarded to the DEPP Advisory Group in Copenhagen, which follow the overall DEA Energy Partnership Programme in all countries.

Detailed indicators for each specific development engagement output will be revisited and potentially refined as part of the inception, where annual targets, in line with already defined targets will be adjusted with reference to the Climate Change Envelope guidelines for monitoring. Monitoring towards these targets will be reported through the bi-annual progress reporting using a “traffic-light” system, where:

- “green” is on-track – implementation continues as scheduled;
- “yellow” is partly on-track which needs an explanation by the Implementation Group to the Management Group, including actions taken to get back on-track and closer monitoring of progress by the Management Group;
- “red” is off-track, which needs a detailed explanation by Management Group to the Steering Committee with recommendations of changes to the implementation to get the engagement back on-track. If “red” in two consecutive reporting periods, the Steering Committee may consider reallocation between outputs within or between the development engagements as deemed relevant.

Monitoring of actual time spent by international and national advisers will be reported in the biannual progress reports with updated work plan and projection of TA input for the following quarter will be stipulated. Similar reporting will be done for workshops and study-tours.

The Danish MFA shall have the right to carry out any technical mission that is considered necessary to monitor the implementation of the programme, which may include a mid-term review. After the termination of the programme support the Danish MFA reserves the right to carry out evaluation in accordance with this article.

Anti corruption

No offer, payment, consideration or benefit of any kind, which could be regarded as an illegal or corrupt practice, shall be made, promised, sought or accepted - neither directly nor indirectly - as an inducement or reward in relation to activities funded under this agreement, incl. tendering, award, or execution of contracts. Any such practice will be grounds for the immediate cancellation of this agreement or parts of it, and for such additional action, civil and/or criminal, as may be appropriate. At the discretion of the Danish Government, a further consequence of any such practice can be the definite exclusion from any projects funded by the Government of Denmark.

Prerequisites

This Development Engagement is in accord with a Memorandum of Understanding between the Ministry of Trade and Industry of Viet Nam and the Ministry of Climate, Energy and Building of Denmark, signed on 6th June 2015. There are no additional prerequisites.

Signatures

Partner/DE