



BỘ CÔNG THƯƠNG

EU – VIET NAM SUSTAINABLE ENERGY TRANSITION PROGRAMME (SETP)

EU - VIET NAM SUSTAINABLE ENERGY TRANSITION FACILITY



EUROPEAN UNION

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**Specific Terms of Reference
for the
Mobilisation of the EU - Viet Nam Sustainable Energy
Transition Facility**

**Support for study and assessment of the Policy Impacts
resulting from the proposed revisions, supplements of the
Law on Economical and Efficient Use of Energy.**

Assignment 1.0

**Within the
EU - Viet Nam Sustainable Energy Transition Programme**

16 May. 2024

SPECIFIC TERMS OF REFERENCE

MOBILISATION OF THE EU - VIET NAM SUSTAINABLE ENERGY TRANSITION FACILITY

Support for study and assessment of the Policy Impacts resulting from the proposed revision, supplement of the law on economical and efficient use of energy¹.

1. BACKGROUND

1.1 The EU - Viet Nam Sustainable Energy Transition Facility

The overall objective of the EU - Viet Nam Sustainable Energy Transition Facility (EVSET Facility) is to provide complementary support to the EU - Viet Nam Sustainable Energy Transition Programme (SETP) and the EU support for the energy sector in Viet Nam. It provides: (i) demand-driven basis, expertise and capacity development in areas such as technology and knowledge transfer through cooperation in areas like research, higher education and R&D for renewable energy and energy efficiency, renewable energy and energy efficiency policy, legal and regulatory frameworks, norms and technical standards, power market analyses, energy governance, energy information systems, energy budgeting and planning, and (ii) supports disbursement of budget support under SETP and the Viet Nam Energy Partnership Group's (VEPG) Secretariat.

The primary beneficiaries of the Facility will be the Ministry of Industry and Trade (MOIT) and its subsidiary institutions. Other beneficiaries include other energy stakeholders, like the Provincial People's Committees (PPCs), relevant Committees of the National Assembly (NA), the Ministry of Planning and Investment (MPI), the Ministry of Finance (MOF), the Ministry of Natural Resources and Environment (MONRE), the Ministry of Science and Technology (MOST) and other social organizations.

1.2 Main Institutions and Stakeholders Involved

The main Institutions involved in Viet Nam in the Facility Component 1 – Implementation of a demand-driven technical assistance facility for MOIT's entities – are the MOIT (EREA, DEESD, ERAV, CETI, OGCD).

1.3 Contexts

The first Law on Economical and Efficient use of Energy (EE Law) was approved and promulgated by the National Assembly on 17 June 2010, and subsequently unified in the Law 01/VBHN-VPQH on 29 June 2018, which provides guidelines on economical and efficient use of energy; policies and measures to promote economical and efficient use of energy; and the rights, obligations and responsibilities of organizations, households and individuals in economical and efficient use of energy.

¹ Terms of "Energy Efficiency Law" or "EE law" are referred to the "Law on Economical and Efficient use of Energy" in this ToR.

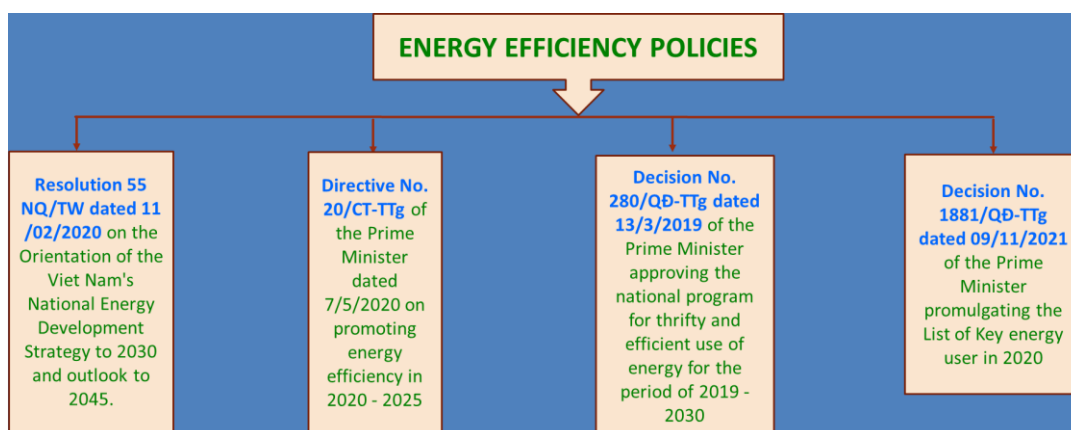


Figure 1: Current regulatory framework for Energy Efficiency in Vietnam

The Resolution No. 55-NQ/TW also clearly states the task of building new instruments and solutions in the field of economical and efficient use of energy, including: developing financial support tools for taxes and land use, loan interest, loan guarantee mechanism for businesses with projects on economical and efficient energy use; build a legal basis to effectively form and operate **funds** for sustainable energy development, promote private sector invest in economical and efficient use of energy and complete the legal framework and encourage the implementation of **energy service models**.

1.4 Identified gaps and challenges.

Since the enactment of the law, and implementation of VNEEP 1 (2006-2010), VNEEP 2 (2011–2016) and VNEEP 3 (2019-2030), several barriers and obstacles need to be addressed and the law needs to be revised, allowing more proactive approach to address the following challenges, but not limit to (Sources: from various DEESD's presentations):

- In VNEEP 3, one of the main tasks is to establish a fund to promote economical and efficient use of energy (EE fund), and this is not mentioned in the current law.
- Consider adjusting energy-use norms in current designated energy users in the fields of industrial production, buildings, constructions, agriculture, and transportation etc.
- Add specific provisions on the obligations of the EE Law compliance subject to designated energy-use entities with alignment to current organizational structures towards strengthening the coordination and participation of Ministries, local authorities in the management of the EE Law to ensure their compliance.
- Add specific provisions on development and adoption of energy management models suitable for designated energy users in the fields of construction, industry and transportation.
- Enhance responsibility of local authorities in management of standards, energy consumption norms of local enterprises.
- Lack of institutions relating to market transformation and monitoring, verification and compliance with EE law.

Furthermore, the application and implementation of the EE law and various related decisions, circulars have been jeopardised by several factors and practical issues, such as the need to strengthen decentralization in state management in the field of EE amongst central and provincial authorities, detailing roles and responsibilities of national focal point, Ministries and related departments/agencies and local authorities; especially roles of focal points of PPC and centrally-governed cities in the implementation of EE. Moreover, specific provisions of Ministries, local authorities, PPC on public procurement of energy saving equipment in state budget investment projects, especially accountability and submission of progress reporting

and annual inspection to competent authorities (relating to Article 30 of the EE Law) need to be added.

In summary, the proposed supplements and revisions to the EE law could be clarified into several groups as follow²:

1. Regulations on state management in the field of economical and efficient use of energy for energy users;
2. Management regulations for energy consulting services, energy auditing, and human resource training in the field of economical and efficient use of energy;
3. Policies and regulations on preferential policies and financial support tools for the field of economical and efficient use of energy;
4. Policy group for market transformation and performance management of vehicles and energy-using equipment;
5. Organization that implements and improves the effectiveness of state management in economical and efficient use of energy.

1.5 Other donors support

As Energy Efficiency (EE) is a large area and covers many cross sectoral fields of activities, it received a lot of attention and big technical assistance in the past. Many DP have provided and are providing the assistance and support for EE activities such as Energy efficiency in the buildings, industrial boilers (UNIDO, KOICA), Energy Efficiency scale up for Industrial enterprises (World Bank), Efficient lighting NAMA pilot (LuxDev), Energy efficiency in urban areas (KfW), RE and Energy efficiency through phase 1, 2 and 3 (GIZ), Energy demand response and Utility Energy efficiency business /financing study (ADB), Proposal for amendments of some provisions in Decree No. 21/2011/ND-CP³ (EUD).

However, there was no such specific TA from the DPs for policy impact assessment for EE law so far, as this is the first time that EE law has been revised and the procedures for policy impact assessment must follow the guidelines and instructions before submitting to National Assembly (N.A.) The revision of the EE law was recorded in the MOIT action plan, and this activity has been included in the approved WPs of the Facility in Component 1, under Activity 1.0 for implementation in 2023-2024.

1.6 Justification for the support

The EE law has been planned for the revision as set out in the National Assembly's plan No. 81/2021/QH15 on the 05th of November 2021. According to the plan, the research and proposal for revised EE law will be submitted for the legislative agenda 2023-2024.

Also, the MOIT actions plan for 2023-2024 integrated this important work of the revision of EE law to complete and to submit to National Assembly in 2024-2025.

Currently the supplements/revisions to the EE law have been drafted and circulated within MOIT (drafted Revised EE law). It is, therefore, urgent to have a support to study and assess the policy impacts resulting from these proposed revisions and supplements to EE law and mechanisms. This assessment is expected to be completed by the second half of 2024, as MOIT would like to submit **the Revised EE law with Policy Impact Assessment Report (PIAR)** to MoJ (Ministry of Justice) for the first steps of evaluation.

² Interview of MOIT Minister Nguyen Hong Dien, 28/2022.

³ Decree No. 21/2011/NĐ-CP dated March 29, 2011, detailed regulations and implementation of the Law on Economical and Efficient Use of Energy

These proposing revisions and supplements of the EE law and mechanisms will have overarching policy impacts which need to be assessed before elaborating the articles and supplements integrated into the EE law and will have to follow the procedures set out in the Law on promulgation of legislative documents (Law 63/2020/QH14) as well as the “Technical guidelines for assessing the impacts of policy” issued by the MoJ. The social, economic (macro level), policy and gender impacts assessment must be submitted together with the draft revised EE law to MoJ for the evaluation, assessment and screening before submitting it to the National Assembly.

2. OBJECTIVES AND SCOPE OF WORK

2.1 General Objectives

The general objective of the assignment is to assess the policy impacts resulting from the proposed revisions and supplements of the EE law and mechanisms, and to contribute to the proposed amendments and revisions of the law and its regulatory framework, by focusing on the further development of a regulatory framework for energy efficiency implementation.

2.2 Scope of work

To fulfil the outputs of the assignment, the NKEs shall perform two work packages:

- (i) **Work Package 1:** Carry out an ex-ante impact assessment for the proposed supplements and revisions of the policies of the draft of the revised EE Law;
- (ii) **Work Package 2:** Participate and present its activities, method and discuss the results in two workshops. Prepare the final PIAR.

2.3 REQUESTED ACTIONS

2.3.1 - WORK PACKAGE 1: Ex-ante impact assessment for the proposed supplements and revisions of the draft of the revised EE Law

Based on existing analysis of the shortcoming of Law and its regulatory framework (decisions, circulars, dispatches, etc.) and implementation issues and challenges after years of effective implementation⁴, as well as the proposed supplements and revisions with specific amendments of the draft of the revised law, the expert team should carry out an ex-ante impact assessment for the proposed supplements and revisions of the policies of the draft of the revised EE Law to support MOIT to evaluate the quantitative and qualitative impacts of the proposed revisions of EE Law.

During the inception period, the NKEs will identify the policies that need to be assessed, based on the draft of the Revised EE law (supplements/ revisions). Subsequently they will develop a detailed outline of the Policy Impact Assessment Report (PIAR) and develop policy solutions to compare and evaluate all policies subject to the PIAR based on the discussions and agreement with stakeholders. Finally, they will develop an analysis method, impact assessment framework, and impact assessment tools consistent with the content of the supplements and revisions of the draft EE Law, especially the methodology for assessing economic, social and gender impacts, as well as impact assessment on legal system and administrative procedures. All the above will have to be included into the Inception Report

⁴ It assumes that MOIT/DEESD will provide all existing reports and presentations on this issue, including the MOIT submission report on the revision of EE law.

(Deliverable 1). During the preparation of the Outline of PIAR, the framework of impact assessment must be discussed and agreed with the DEESD focal point.

Following the approval of the Outline of the PIAR, the NKEs will start the preparation of the draft PIAR and proceed with the identification of the overall inadequacies, including the context of supplements/revisions and policy developments goals. This Impact assessment will be based on official information, available data and MOIT provided documents. In the draft PIAR (**Deliverable D2**), the following impacts and assessments should be carried out, but not limited to.

- a. Economic impact: Costs, benefits for consumers, users, businesses affected by the new policies. Investment required to be made by businesses, users, consumers as per the new policies. Costs and benefits to State Budget as required by policy measures as proposed by the draft. Overall economic costs and benefits from the perspective of energy security, green growth, contribution to net-zero targets. Special attention to energy sector indicators such as energy consumption reduction (MWh saved), energy sector investment reduction (USD/VND saved, GDP), Energy Price, CPI, etc.
- b. Social impact: Employment impacts (number of jobs created), particularly in industry and energy sector, impacts for various population groups in term of health, revenues etc.
- c. Gender impact: gender opportunity, benefits, and rights;
- d. Impact on legal system and administrative procedures: Impacts on Government organization, compatibility and interaction with existing legal and regulation system, implementation possibility, compatibility with international conventions, practices.

2.3.2 - WORK PACKAGE 2: Participate and present its activities, method and discuss the results in two workshops. Prepare the final PIAR.

The policy impact assessment will have to be conducted in consultation with the public and relevant stakeholders on possible revisions and changes in the EE Law, according to the Law on promulgation of legislative documents (Law 63/2020/QH14), and the “Technical guidelines for assessing the impacts of policy”⁵. Therefore, two workshops have been included in the work package 2.

NKE must participate and present its activities, method in two workshops as follows: 01 workshop to get the comments on the method and approach of the impact assessment; and in 01 workshop to present the draft results of the policy impact assessment report (PIAR) to collect comments, recommendations for the finalization of the PIAR (**Deliverable D4**). Prior to the workshops, the NKE will have to prepare two presentations for two workshops (**Deliverable D3**) that will have to be approved by the EVSET Facility.

Location of the workshop will have to be agreed in the Inception report. The logistic of the workshop will be taken care of by the EVSET Facility.

3. DELIVERABLES AND REPORTING

3.1 Description of Deliverables/Outputs

⁵ For the format of the impact assessment, NKE will follow Law on promulgation of legislative documents (Law 63/2020/QH14) and the “Technical Guidelines for Assessing the impacts of policies”, issued by the MoJ 2018 at <https://cspl.mic.gov.vn/Pages/TinTuc/tinchitiet.aspx?tintucid=138104>

The Expert shall produce the following deliverables/outputs:

1. **Inception report (D1):** This deliverable outlines the PIAR with method and approach, develops an analysis method, impact assessment framework, and introduces impact assessment tools consistent with the content of the supplements and revisions of the draft EE Law, especially the methodology for assessing economic, social and gender impacts, as well as impact assessment on legal system and administrative procedures.
2. **Draft PIAR (D2):** the draft report includes the identification of the overall inadequacies, context of supplements/revisions and policy developments goals. This Impact assessment will be based on official information, available data and MOIT provided documents. The following impacts and assessments should be included and described in the draft report: Economic impact, social impact, gender impact, impact on legal system and administrative procedures (see the section 2.3 for more details).
3. **PowerPoint Presentations (D3):** One presentation on the method and approach of the impact assessment; a second presentation to communicate the draft results of the policy impact assessment report (Draft PIAR) and to collect comments and recommendations for the finalization.
4. **Final PIAR (D4):** The final report will integrate the received comments from EUD and from MOIT as well as the suggestions from the two workshops, into the draft PIAR that will be finalized and submitted for the approval.

Note: The indicative implementation schedule of activities is given in Section 4.4 below.

3.2 Language

Those documents will be prepared in Vietnamese and English and submitted in electronic versions (Editable formats such as Word, Excel, Ppt files, and PDF files).

3.3 Responsible Body and Approval of Reports

The DEESD (MOIT) will be responsible for approving all deliverables/outputs, which will then be sent to EUD for endorsement.

The Experts responsible for the Assignment should always consult with the EVSET Facility Team to safeguard the EVSET Facility's quality assurance of deliverables and adherence to the Terms of Reference (ToR). Therefore, the EVSET Facility Key Experts should constantly be in contact with the Assignment Experts and supervise the drafting and quality control of the documents. Furthermore, the Assignment Experts must submit all reports, including the Inception Report with the proposed work methodology and implementation schedule (D1), the draft PIAR report (D2), presentations (D3) and final reports (D4), to the EVSET Facility Team. After review and quality check, the Facility Team will forward them to the MOIT focal point identified in the ToR (see Section 6.2) who will be responsible for approval and later to the EUD Focal point for endorsement.

4. LOCATION, ESTIMATED DURATION AND TIME FRAME OF THE ASSIGNMENT

4.1 Location

Place of posting is Viet Nam, with the main working location for the assignment in Hanoi.

4.2 Start and Duration

The assignment will have to start immediately after approval of the current ToR and the Non-Key Expert CV by MOIT and their further endorsement by EUD.

Tentative starting date of the assignment is the 15th of July 2024.

The total man-days allocation for two Experts for this assignment is **Seventy-three (73) working days** (including travel days, but not for mobilisation and demobilisation) spread over a five (05) months period. In addition, the Experts will participate in a brainstorming session with the EVSET Facility Team (through physical meeting or teleconference) before the start of his mission.

4.3 Local Travel and Office

Travel out site of Hanoi is foreseen, NKEs will be entitled to inter-cities' travel costs, if required and approved, while performing their assignment in Viet Nam.

4.4 Indicative Work Schedule

The Task details and timelines are the following:

	Tasks/Activities	Timeframe (Working days)		Tentative Work Schedule
		NKE1	NKE2	
1	Identification of the policies that need to be assessed, based on the draft of the Revised EE law (supplements/ revisions).	2	2	Week 1-2
2	Develop a detailed outline of the Policy Impact Assessment Report (PIAR) and develop policy solutions to compare and evaluate all policies subject to the PIAR based on discussion and agreement with stakeholders.	3	2	Week 4
3	Develop an analysis method, impact assessment framework, and impact assessment tools consistent with the content of the supplements and revisions of the draft EE Law, especially the methodology for assessing economic, social and gender impacts, as well as impact assessment on legal system and administrative procedures. (Deliverable D1) .	5	4	Week 6
4	Summary and draft content: Identify the overall inadequacies, including the context of supplements/revisions and policy development goals, in the PIAR.	4	3	Week 8
5	Implement/Carry Policy Impact Assessment, including: i) Social impacts; ii) Gender impacts; iii) Economic Impacts; Impact on legal system; Impact on administrative procedures. This Impact assessment is based on official information,	18	12	Week 14

	available data and MOIT provided documents. Prepare the draft PIAR (Deliverable D2)			
6	Prepare the presentations for the Workshop (Deliverable D3) and conduct the workshop.	2	2	Week 16
7	Revise and complete the PIAR after the comments from Stakeholders (MOIT, EVSET, EUD).	3	2	Week 18
8	Final PIAR (Deliverable D4).	5	4	Week 20
	Total (73 WDs)	42	31	20 Weeks

5. REQUIRED PROFILE OF THE EXPERTS

Two senior experts will undertake the assignment (**Cat. A and B**) whose specific detailed requirements to be fulfilled include:

5.1 Assignment Leader, Senior Expert on Energy regulatory framework, regulation and policy impact assessment, (NKE1/AL – Cat A)

(Responsibilities of NKE1/AL: As a team leader, he/she will take overall responsibility for the assignment's implementation and coordinate the overall work. Jointly with the NKE2, he/she will work on methodology, analysis and assessment, focusing more on aspects of social impacts, gender impacts, the impact on legal system, and impact on administrative procedures.)

Qualification and Skills	<ul style="list-style-type: none"> • Master's Degree or higher in Law, policy, management, or a related discipline. • Degree Higher than a master's degree in the field of Law, policy, management, or a related discipline, with background in legal and policy regulatory issues and an additional degree in a related relevant technical area would be an advantage
General Professional Experience	<ul style="list-style-type: none"> • At least 12 years of relevant professional experience in legal and policy area. • Proven excellent report writing and communication skills (oral and written). • Fluent in spoken and written English. • Proven team leader experience would be an asset.

<p>Specific Professional Experience</p>	<ul style="list-style-type: none"> • A minimum of 5 years relevant international experience in developing countries with international cooperation projects or with international development partners. • Proven experience in designing and/or applying policy impact assessment. • Extensive knowledge and practice of legal regulation and implementation and working practice of international energy reporting. • International (European) knowledge and experience in legal and regulation in energy sector, particularly in energy efficiency would be added value. • Experience in energy regulation and policy assessment. • Knowledge of Vietnam’s energy institutional, legal, and regulatory frameworks, and related work experience in Vietnam, would be an asset. • Proven experience in providing national/regional technical assistance/capacity building (training, workshops) on energy legal regulation, energy policy.
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5.2 Senior Economic Expert in Vietnam Energy Sector (NKE2 – Cat. B)

(Responsibilities of NKE2 – Cat B: As a team member, he/she will take participate in all process of the assignment’s implementation. Jointly with the NKE1, he/she will work on methodology, analysis and assessment, focusing more on aspects of economic impacts. He/she will contribute as well on other gender impacts, the impact on legal system, and impact on administrative procedures.)

<p>Qualification and Skills</p>	<ul style="list-style-type: none"> • Master’s degree in economics or a related discipline, and a background in energy regulation framework, regulatory issues, or similar; • Additional legal degree and/or policy planning experience would be an advantage.
<p>General Professional Experience</p>	<ul style="list-style-type: none"> • At least 12 years of relevant professional experience in legal and policy area. • Proven excellent report writing and communication skills (oral and written); • Fluent in spoken and written English and Vietnamese
<p>Specific Professional Experience</p>	<ul style="list-style-type: none"> • A minimum of 5 years working experience with international cooperation projects or with international development partners. • Proven professional experience in developing economic impact assessment of legal documents (circulars, decisions, decrees, etc.). • Excellent knowledge of Vietnam law and relevant GoV legislation in energy sector, institutional arrangement in the energy sector;

	<ul style="list-style-type: none">• Good understanding of Viet Nam energy sector, particularly in Energy efficiency area.• Experience in providing technical assistance/capacity building (training, workshops) on energy legal regulation, energy economics.• Prior experience working with MOIT will be an advantage.
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6. ASSIGNMENT IMPLEMENTATION MODALITIES AND RESPONSIBILITIES

6.1 Management Structure

ToRs, NKEs, and implementation Reports of Component 1 activities are subject to be approved by MOIT (the respective MOIT entity concerned by the project) first, then sent to EUD for endorsement.

For this Assignment, the MOIT entity concerned is DEESD.

6.2 Contact Points at:

- MOIT: DEESD Focal point for this assignment.
- EUD: Ms Tran Thuy Duong, Programme manager – Sustainable Energy and EVSET Facility EUD’s focal point.
- EVSET Facility: EVSET Facility Team leader.

6.3 Assignment draft deliverables

Comments on Draft Deliverables must be provided by DEESD and/or EUD (as described in Section 6.2 above) within ten working days;

The NKEs, the Facility Team and the respective Facility Consortium Members will address the comments submitted by the partner organisation and submit the revised/final deliverables for written approval within ten working days.

6.4 Form of Deliverable for Approval

All documents to be exchanged between the MOIT, EUD, and the Facility will be in electronic form, in English and/or Vietnamese. However, the Facility Final Report will be printed and sent to the MOIT entity concerned on paper (hard copy).

6.5 Management of the Mission in Country and Timesheets

The management and organisation of the Country's mission/visits will be the responsibility of the EVSET Facility Consortium.

The Experts shall prepare a monthly timesheet (giving a detailed account of daily tasks implemented) to be submitted for signature to the EVSET Facility Team, and later to the EUD Programme Manager.

7. ANNEXES

The following documents are provided as an initial basis and to support the verification work of the Expert:

- 7.1 Law on Economical and Efficient use of Energy, issued in 2010; and its modified and revision by the consolidating law 01/VBHN-VPQH, issued on 29/6/2018.**
- 7.2 DRAFT revised EE Law**
- 7.3 Law on promulgation of legislative documents (Law 63/2020/QH14)**
- 7.4 Other documents, presentations available and provided by MOIT/DEESD.**