



Ministry of Natural Resources and Environment
**Institute of Strategy and Policy
on Natural Resources and Environment**

Legal review and consideration of the feasibility of the Draft Decree

***On roadmap and measures for Vietnam to participate in the global GHG
emission reductions***

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MAIN CONTENTS

- 1. Review and consider the compatibility with the legal system of the Draft Decree.**
- 2. Consider the feasibility of the Draft Decree.**
- 3. Some suggestions and recommendations.**



Review the compatibility with the legal system of the Draft Decree

Method of review: in accordance with stipulations of Law on Promulgation of Legal Documents in 2015 and Decree No. 34/2015 /ND-CP guiding some articles of the Law.

1. Constitutionality:

- Not contrary to specific provisions of the Constitution.
- Consistent with the spirit of the Constitution.

2. Legality

- Right authority: in form and content.
- Comply with the provisions of laws on development and issuance procedures.
- Comply with regulations on presentation formality and techniques.
- Having contents suitable with the legal documents system.

3. Compatibility with related international treaties

- UNFCCC
- Paris Agreement



The constitutionality of Draft Decree (1)

The 2013 Constitution of Vietnam:

Specific regulations related to CC and GHG emission reduction:

- Everyone has the right to ***live in a clean environment and the obligation to protect the environment*** (Article 43).
- The Socialist Republic of Vietnam builds an independent, self-reliant economy that promotes internal strengths and international integration with ***close links with environmental protection*** (Article 50)
- The State has policies on environmental protection; management, effective and sustainable use of natural resources; nature and biodiversity conservation; ***pro-active prevention and combating of natural disasters and climate change response***.
- The State encourages all activities of environmental protection, ***development and use of new energy and renewable energy*** (Article 63).



The constitutionality of Draft Decree (2)

The 2013 Constitution of Vietnam:

The spirit of the Constitution:

- A vision for environmental protection, and initiative- taking in coping with climate change; to realize the goal of prosperous people, a strong, democratic, fair and civilized country, ***all people with a good life, freedom and happiness;***
- Vietnam actively and positively integrates and cooperates internationally; and is a reliable partner and ***a responsible member of the international community.***

The provisions of the Draft Decree are to reduce GHG emissions, and actively respond to climate change. Therefore, it is in accordance with Article 63 of the Constitution and in accordance with the spirit of the Constitution

→ ***Draft Decree is constitutional.***



The legality of the Draft Decree

1. Regarding the authority:

- *Right authority in terms of formality*: Draft Decree with clear legal basis (LEP 2014); and the issuing body is the Government.
- *Right authority in terms of contents*: The Government stipulates the contents of roadmap and modality of mitigating GHG emissions.

2. Regarding the procedures for document development:

- *Comply with legal regulations on procedures for document development and promulgation*: The decree is prepared by MONRE, in accordance with the Law on the Promulgation of Legal Documents in 2015.

3. Regarding presentation formality and techniques:

- The draft Decree complies with *regulations on presentation formality and techniques*.



The legality of the draft Decree

4. The relevance of content to the legal documents system:

4.1. The appropriateness of the content of the Draft Decree with the document system on policies related to GHG emission reduction, including:

- Resolution 24/NQ-TU of the Central Committee of the Party;
- Law on Environmental Protection in 2014;
- National Climate Change Strategy;
- National Green Growth Strategy;
- Scheme on management of GHG emissions and carbon credit business activities to the world market



Documents on GHG emission reductions(1)

Resolution 24/NQ-TU of the Central Executive Committee of the Party (2013):

- Adaptation and mitigation must be carried out in parallel, aiming to reduce the GHG emission intensity by 8-10% by 2020, compared to 2010.
- GHG emission reductions: GHG inventory; implementation of mitigation activities suitable to Vietnam's conditions; development of the carbon market; fighting against deforestation and forest degradation; energy saving and efficient use.

Law on Environmental Protection (2014):

- Environmental protection is in harmony with socio-economic development, social security and so on; responding to climate change to ensure that everyone has the right to live in a healthy environment.
- Encourage the development of renewable energy, 3R, cleaner production...
- GHG emissions management: building inventory system; implementation of NAMA activities; protection and development of forests and ecosystems; checking and inspecting the compliance with regulations on inventory and mitigation of GHG emissions; developing a carbon credit market; international cooperation on GHG mitigation.



Documents on GHG emission reductions (2)

National Climate Change Strategy (2011):

- Responding to climate change is vital; implementing simultaneously both adaptation and mitigation of GHG emissions; a low carbon economy and green growth have become a major trend in sustainable development.
- Protection and sustainable development of forests; development of renewable energy and new energy sources; energy saving and efficiency; change of farming practices; effective waste management.
- It is expected that after 2025, Vietnam should pay special attention to reducing GHG emissions to protect the Earth's climate system.

National Green Growth Strategy (2012):

- Green growth, moving towards a low carbon economy, enriching natural capital has become a major trend in sustainable economic development; reducing emissions and increasing the GHG absorption capacity has become a mandatory and important indicator of socio-economic development.
- Reducing GHG emission intensity and promoting use of clean energy and renewable energy; greening production; greening the lifestyle and promoting sustainable consumption.



Documents on GHG emission reductions (3)

Scheme on management on GHG emission and carbon trading activities to the world market (2012):

- GHG emission management to implement UNFCCC and international treaties; Development of a low carbon economy, green growth and together with the international community in an effort to reduce GHG emissions.
- Activities:
 - Strengthening capacity of GHG inventory; Establishment and operation of the inventory system; Perform periodically every two (2) years;
 - To achieve the objective of reducing emissions and increasing the GHG absorption capacity up to 2020: Energy and transport; Agriculture; LULUCF; Waste management
 - Needs assessment; To disseminate and apply technologies to reduce emission and increase the potential of GHG absorption in Vietnam;
 - Develop the NAMA framework;
 - Establish and operate the national MRV system;
 - Raise awareness, responsibilities of all levels, sectors, localities, enterprises and communities;
 - Strengthen international cooperation to take advantage of financial support and technology transfer.



GHG emission reduction Target

Indicator	Specific targets	Related documents
GHG emission reductions	By 2020: <ul style="list-style-type: none"> - Energy and Transport: reduction of 8% compared to 2005. - Agriculture: reduction of 20%, compared to 2005 - LULUCF: Increase GHG emission absorption of 20% compare to 2005. - Waste management: reduction of 5% compared to 2005. 	Scheme on management of GHG emissions (QD 1775/QD-TTg)
	<ul style="list-style-type: none"> - By 2020, to reduce GHG emissions from energy sector by 10-20% to 20% compared to BAU, voluntary 10% and the other 10% on condition of having international support. - By 2030, reduce GHG emissions from energy sector by 20-30% compared to BAU, voluntary about 20% and the remaining 10% on condition of having international support. - By 2030 and 2050, reduce of GHG emissions at least 1.5- 2% per annum. 	National GG Strategy
GHG emission reduction per GDP unit	By 2020, reduction of 8- 10% compared to 2010	Resolution 24-NQ/TW, National CC Strategy, National GG Strategy
Increase of ratio of renewable energies and new energies	By 2020: more than 5%, by 2050: 11% of total primary commercial energy consumption	Resolution 24/NQ/TW, National CC Strategy,
Forest coverage	By 2020, achieving forest coverage of 45%	Resolution 24/NQ/TW, National CC Strategy, National GG Strategy



Responsibilities of related agencies (1)

4.2. Consider the appropriateness of the responsibilities of the parties involved in the implementation of the Decree by reviewing the documents defining the functions and duties of relevant agencies.

- **MONRE:** Decree No. 36/2017/ND-CP dated 4 April 2017
- **The specialized ministries and sectors:**
 - MOIT: Decree 95/2012/ND-CP
 - MARD: Decree No. 15/2017/ND-CP
 - MOC: Decree 62/2013/ND-CP
 - MOT: Decree 12/2017/ND-CP
- **The general Ministries and sectors:**
 - MPI: Decree 116/2008/ND-CP
 - MOF: Decree 215/2013/ND-CP
 - MOST: Decree No. 20/2013/ ND-CP



Responsibilities of related agencies (2)

- **People's Committees at all levels:** Law on Organization of Local Governments (Law No. 77/2015/QH13 dated 19 June 2015)

Comments:

- *A number of ministries and agencies mention CC in their functions (Agriculture and Rural Development, Construction), while others only mention generally about environment protection (MOIT & MOT).*
- *Local authorities are responsible for organizing and ensuring the implementation of the Constitution and laws in the localities.*
- *The stipulations of Draft Decree on tasks of ministries, sectors and localities is in line with the Decrees defining the functions and tasks of the ministries and sectors on environmental protection and responding to climate change and the Law on Organization of the Local Governments.*



Comment and general assessment on the appropriateness of contents

- Documents on the policy of the Party, laws of the State on response to climate change aim at reducing GHG emissions, green growth, low carbon development, especially for the period after 2025.
- The documents set out the viewpoints, objectives and directions for reducing GHG emissions to 2020, 2030 and 2050.
- Main contents/tasks: Developing GHG inventory system; implementation of NAMA activities; Protection and development of forests and ecosystems; Development of renewable energies; Developing a carbon credit market; International cooperation on GHG mitigation.
- Responsibilities of the concerned parties are stated appropriately in terms of authority, functions and duties.

Therefore, the Draft Decree should have contents in line with the regulations on GHG emission reduction as stipulated in documents on the policy of the Party, the law of the State on climate change.



The compatibility with international treaties (1)

United Nations Framework Convention on Climate Change (UNFCCC):

- Objective: To achieve the stabilization of atmospheric GHG concentrations at a level capable of preventing dangerous human interference with the climate system.
- The main duties of the Parties on mitigation include:
 - *Make and publish the GHG inventory periodically.*
 - *Establish and implement national programs for mitigation and adaptation.*
 - *Promote and cooperate in technology transfer, implement the mitigation in energy, transport, industry, agriculture, forestry and waste.*
 - *Strengthen sustainable management, conservation and development of GHG sinks and tanks including biomass, forests and oceans, and ecosystems.*
 - *Consider climate change in policies and actions on environment, economics and society.*
 - *Strengthening and cooperating in scientific and technological research; Monitoring and development of the database; Sharing, publicizing information on climate change and impacts.*
 - *Strengthen and cooperate in education, training and communication, and awareness raising on climate change.*



The compatibility with international treaties (2)

Paris Agreement (PA):

- Target: keep global average temperature increase by end of 21st century not exceeding 2°C and make efforts to keep an increase of no more than 1.5°C compared to the pre-industrial period.
- Main contents include:
 - *Reach the peak of emissions as soon as possible to achieve a balance between emissions and absorption in the second half of the 21st century.*
 - *Prepare, notify and take measures to achieve NDC.*
 - *Develop and announce long-term Low Emission Development Strategy (LEDS).*
 - *Conserve and enhance the tanks and sinks of GHG emissions.*
 - *The developed countries parties shall provide financial support to the developing countries parties to implement mitigation and adaptation.*
 - *Cooperation on development and technology transfer on climate change.*
 - *Strengthen education, training, awareness raising of climate change, and increased community participation.*
 - *Set up transparency framework: reports, NDC implementation, support to respond to climate change.*



The compatibility with international treaties (3)

- The Draft Decree aims to help Vietnam implement targets of NDC; stipulates the roadmap and modality for implementing this activity.
- The Draft Decree contains provisions on the planning practices of ministries and sectors; implementation roadmap and national MRV framework for mitigation; responsibilities of stakeholders.

Therefore, the Draft Decree is compatible with the contents of international treaties including UNFCCC and PA.



The feasibility of the Draft Decree (1)

- Draft decree regulates (i) the roadmap; (ii) planning by ministries; (iii) setting up the MRV framework for GHG emission mitigation, ***which is in line with the Party's and State's policies.***
- ***Vietnam's NDC has been built with a scientific approach;*** with the participation of ministries, sectors and stakeholders; widely consulted; with international support (UNDP, GIZ).
- ***The commitment of the Government of Vietnam*** is strong to contribute to the mitigation effort of the international community.
- Ministries, sectors ***have necessary capacities*** in knowledge, understanding and human resources; In addition to the state budget, additional support from TA projects by international donors can be mobilized.

Therefore, the provisions of the Draft Decree on sectoral NDC implementation planning, MRV framework building, Mitigation Registration System, LEDS, etc. are highly feasible.



The feasibility of the Draft Decree (2)

- Provinces and cities under the central government are encouraged to develop and implement GHG emission reduction plans: ***there are concerns about the ability of provinces to perform*** due to capacity and resources constraints .
- ***It is difficult for district and commune PCs to carry out research and review to develop plans for NDC implementation*** in provinces/cities due to limitations in knowledge, understanding, human resources and finance.
- The approach to implementing the NDC is through the implementation of sectoral plans, which ***should address the role of non-state enterprises, households and communities.***
- The resources required to carry out mitigation activities are enormous in the period 2021-2030, ***requiring a high determination and commitment*** of the whole political system and the whole society.

Other issues: Technology

National Climate Change Strategy:

- To intensify the ***research and application of high technologies in key industries;***
- By 2020, ensuring ***value added of total industrial production value of about 42-45%***; By 2050, to raise the industrial production value of hi-tech industries to over 80%;
- To intensify technological renovation in the direction of applying hi-tech technologies, increasing the ratio ***of investment in the renovation of machinery and equipment by more than 20%*** by 2020.

It should be considered that the Decree introduces mandatory regulations for the application of advanced and hi-tech technologies to new projects; at the same time, imposing roadmap on technology upgrading for the current projects to gradually achieve the target of low emission.



Other issues: Integration of mitigation targets in development master plans

- **The period 2026 - 2050:** During this period, Vietnam would have become a modern industrialized country, **reducing GHG emissions to become a criterion** in socio-economic development activities. (*National Strategy on Climate Change*).
- Reducing emissions and increasing GHG absorption capacity has gradually become a mandatory and important indicator of socio-economic development (*Objective of National Green Growth Strategy*)
- To review and adjust the planning of production sectors, **gradually limit the economic sectors that generate large amounts of wastes, pollute and degrade the environment** and create conditions for development of new green industries; promote fast-growing green industries (*National Green Growth Strategy*).

It should be considered that the Decree sets out restrictions on polluting economic sectors; makes mandatory the integration and putting GHG emission reduction targets into sectoral development plans; socio-economic development planning of localities in the period of 2021-2030.



Summary

- Draft Decree promulgates roadmap and measures for Vietnam to participate in mitigating GHG emissions based on ***clear legal basis, having constitutionality, legality and consistency*** with the system of policies and laws of the Party and the State.
- The Draft Decree is compatible with relevant international treaties, namely the ***United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement (PA)***, of which Vietnam is a member.
- In terms of feasibility, the current Draft Decree is ***feasible*** in requiring ministries to work out plans; encouraging provinces to make plans; and set up the MRV system.



Recommendations

- The **views and approaches** should be considered and clarified when developing the Decree. Especially, the **approach on modality** to mitigate GHG emissions.
- It is necessary to **clearly define a feasible roadmap** for Vietnam to achieve the NDC targets and to participate in global GHG mitigation. Considerations should be taken in **setting a roadmap first and then defining measures** to achieve it.
- In terms of modality, apart from **formulation and implementation of the plans** by the ministries and sectors, it is necessary to consider measures to mobilize the participation on GHG emission reductions in **the whole society, non-public sector, and communities**. The regulations on responsibilities, rights and obligations of organizations and individuals should be added.
- The **provisions on technological renovation should be added; clarify and specify further the provisions on mitigation targets** in development plans for the period 2021-2030.



Thank you very much!

ntthang@isponre.gov.vn