

The recent revision of the EIA system in Vietnam

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ABSTRACT

Vietnam is a developing country, the economy has been growing rapidly and achieved success in many fields. Issues raised are how to continue sustainable socio-economic development, no harm to the environment. To meet this critical requirement, Vietnam is implementing the development policy, integrated use of tools such as legislation, economic and environmental tools of Environmental Protection Plan, Strategic Environmental Assessment, Environmental Impact Assessment. For environmental impact assessment system, the legislation has been conceived, developed and adjusted, supplemented to suit the actual situation in Vietnam and international. Particularly in the context of promoting national open policy, encouraging investment and development in order to achieve the objective of industrialization and modernization of the country. The tasks set out is to create favorable investment environment, while ensuring the requirements of environmental protection. In this article, recent amendments of EIA system in Vietnam in 2014 and 2015 are introduced. EIA system has achieved important results, but is still many issues that need to be studied, discussed extensively in order to meet the requirements of the new situation.

Main Paper

The recent period, the system of Environmental Impact Assessment has been improved with supplementary legal documents in Vietnam. It is noted that the new law on Environmental Protection No 55/2014/QH13 was ratified on 23 June, 2014. In this law, the most time consuming works are the revision and improvements of Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) regulations (Chapter II). In this chapter of the law, a new concept and definition of Environmental Protection Planning was introduced and Environmental Protection Plan (EPP) replaces Environmental Protection Commitment.

For Environmental Protection Planning, new content is shown in Article 8 to Article 12. Environmental Protection Planning at the central level is a single, and at the local level is a single or the integrated in a master planning of socio-economic development for province or city under the central government.

Revised contents on Strategic Environmental Assessment are included in the Article from 13 to 17 (Article 13: Objects to implement Strategic Environmental Assessment: including several new types of plan; Article 14: implementation of Strategic Environmental Assessment: when preparing strategy, planning and plan, the final result of Strategic Environmental Assessment must be checked and incorporated into the strategy, planning and plan).

The contents on Environmental Impact Assessment have been revised and updated in many issues (from Article 18 to Article 28 of Chapter II), mainly on time requirement, responsibility of project owner, the approval authority and different related stakeholders in different stages of project implementation, legal issue of the Environmental Impact Assessment approval decision. The law is clearly stipulated in Article 20 of re-preparing Environmental Impact Assessment report, accordingly, only projects which are not implemented within 24 months, change the location of the project, must re-prepare the Environmental Impact Assessment report. In addition, when projects that change the scale, capacity, and technology result in increase the negative impact on the environment, Government regulates the

projects in detail. Based on paragraph 2, Article 27, investors must report to the agency for approval of Environmental Impact Assessment, if the results of implementation of environment protection facilities for project operating for large projects have the risk of adverse impact on the environment, the government regulates these large projects. These projects are only operated after the agency that approved Environmental Impact Assessment report, inspects and confirms the completion of the Environmental Protection facilities.

The content for Environmental Protection Plan is included in the Articles from 29 to 34 which mainly rely on the regulation on Environmental Protection Commitment. In this new law, Environmental Protection Plan was introduced and replaced Environmental Protection Commitment.

2014 Environmental Protection Law stipulates a separate chapter on responding with climate change. With Chapter IV of responding with climate change, the first time was legislated regulations to respond to climate change mitigation and adaptation in the relationship closely with the Environmental Protection.

In 2015, the decrees and circulars and follow up technical guidelines for SEA/EIA implementation were introduced such as Decree No. 19/2015/ND-CP of the Government, dated 14 February, 2015 on detail guiding the implementation of some articles in Law on Environmental Protection 55/2014/QH13; Decree No 18/2015/ND-CP of Government dated 14 February 2015 on environmental protection planning, strategic environmental assessment, environmental impact assessment and environmental protection plan; Circular No. 27/2015/TT-BTNMT dated 29 May, 2015 by Ministry of Natural Resources and Environment on strategic environmental assessment, environmental impact assessment and environmental protection plan.

The EIA policy system has also improved with many guidelines on EIA for specific sectors:

Ministry of Natural Resources and Environment has issued 27 EIA/SEA Guidelines for the following project types such as Development of industrial zones, Urban Development, Traffic works, Brewery and beverage, Thermal Power Plant, Textile Factory – dyeing, Cement Plant, Mining and processing of stone and clay, Hydropower, Pulp and paper plant, Construction of ports, Manufacture of basic chemicals, Construction of landfill for domestic waste, oil and gas extraction, Construction of petroleum storage and refining iron and steel industry, Project mining by open pit methods, Rare earth mining project, Rare earth processing project, Bauxite mining project, Reclaiming the conversion of forests into industrial tree plantations, Construction of tourist area, Construction of hazardous waste incinerator, Socio-economic development planning, Industrial development planning, Land-use planning, Shipyard, and Infrastructure construction for industrial zone.

In addition to the results achieved, EIA is also difficult and challenging.

The challenges that Vietnam faces regarding EIA are as follow:

- Paragraph 2 of Article 25 of the Environmental Protection law 2014, the decision to approve the report of environmental impact assessment as a basis for the State competent agency to decide project investment policy; Meanwhile, procedures and records required investment policy decision in Paragraph 1, Article 33 of the Investment Law 2014 are not required to provide approved assessment environmental impact report by the competent authority.
- Lack of Guidance on the Financial Regime: Need guidelines for cost for preparation of Environmental Protection Planning, SEA, EIA, EPP, Environmental Protection (EP) program, cost for post-EIA activities.
- Lack of guidelines on resettlement, compensation, review, .

- Certificate in EIA consultancy is mentioned in Article 13 of Decree No.18/2015/ND-CP. But the detail certificate system and training system is not clear.
- Screening and scoping of some middle or small size projects which are reviewed by local agencies or line Ministries might not be adequately conducted.
- Timely information disclosure of EIA and project for people is still limited in a way to ensure the quality, comprehensiveness and effectiveness of the EIA. The Information disclosure on the web without limitation should be stipulated.
- The information and data about the current state of the physical environment, socio-economics on the whole country remain scattered, incomplete and lack of system
- Project permission sometime issues before EIA approval and construction of projects started before the approval of EIA in some cases.
- EIA follow up is insufficient: Project proponents do not fully carry out commitments in EIAs and requirements of the environmental authorities; Environmental authorities have insufficient capacity to enforce implementation.
- Cooperation, exchange of management experiences with the countries in the world, especially countries of Mekong river basin are still weak. Lack of legislation for new concepts: Trans-boundary EIA, Regional, International issues, Cumulative Effect Assessment.
- The new law has not been mentioned to involvement of NGOs during the environmental impact assessment process.