

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness
== *** ==

Hanoi, May 20th 2012

**Green Innovation and Development
Centre (GreenID)**

Review and recommendations report on the 5th draft amendment of the Law on Electricity

Prepared by an independent review team

INTRODUCTION	3
I. THE COURSE OF PREPARING AN AMENDMENT OF LAW ON ELECTRICITY IN VIETNAM	3
I.1. The need for an amendment of the Law on Electricity	3
a. The 1954-1990 period:	3
b. The 1990-2009 period:	3
c. The period from 2004 to present:	4
I.2. Drafting and submitting to National Assembly	5
I.3. Comments from expert team	6
II. PROPOSAL OF MODIFICATION AND SUPPLEMENTATION IN ELECTRICITY LAW	6
II.1 Electricity policy and investment	7
II.2. Electricity development planning and investment	8
a. Types of electricity plan	8
b. The planning cycle	8
c. The quality of planning and other issues in planning	9
d. Regulation of the input data in planning	9
e. Sanction in planning	9
II.3. Competitive electricity market	9
a. Identify market and approach	9
b. Principles of market operation	10
c. Participants in the electricity market	10
d. Pricing Structure:	10
e. Agencies and units setting and approval of electricity prices	12
f. Forming, structuring and adjusting price of electricity based on:	12
II.4. Safety, security and electricity environment	13
II.5. Savings in electricity generation, transmission, distribution and consumption	14
II.6. State management of electricity	14
a. About agency and content of electricity regulation	14
b. About the inspection	15
c. Structure of Electricity sector and organizational structure of the electricity market	16
III. CONCLUSION	16
DISCLAIMER	16

INTRODUCTION

Green Innovation and Development Centre (GreenID) is an organization registered under Vietnam Union of Science and Technology Associations (VUSTA). GreenID works to promote green innovations in the areas of sustainable energy, environment and natural resource protection and governance under the climate the context of climate change through researching, promoting good practices and innovations, networking, dialoguing and advocating policy. Recently, GreenID has focused a great deal of effort in coordinating with other related agencies and departments involved in implementing activities related to hydropower development and sustainable energy in Vietnam and the Mekong region.

GreenID has a strong interest in the process of establishing the revised Electricity Law in 2012, and GreenID has formed a review team of electricity and energy experts, with many years of experience working in the electricity sector, for this task force to analyses and make recommendations on the draft amendment of the Law on Electricity to be submitted to the National Assembly and related agencies. The review and recommendations report aims at providing the National Assembly with an additional source of reference for use in the sessions before approving this important law. We are sincerely grateful for the interests in this report.

I. THE COURSE OF PREPARING AN AMENDMENT OF LAW ON ELECTRICITY IN VIETNAM

I.1. The need for an amendment of the Law on Electricity

Since 1954, the Electricity sector has gone through nearly 60 years of operation that can be divided into periods of adaptive management models as follows:

a. The 1954-1990 period:

- A characteristic of this period is the centralized management model, subsidy, regardless of the managerial functions of State and functions of electricity production and trade.
- The legal framework of this period includes three decrees: 1) Decree on the production and sale of electricity, 2) Decree on safety of high-voltage lines, and 3) the Decree on safety of the low pressure lines.
- In this period, there is shortage of electricity at any time, management mostly concerns distribution of electrical energy, high exclusivity and large authoritarian.

b. The 1990-2009 period:

- Since the State founded the National Electricity Corporation (TCT 91), functions of State management and business were separated, allowing enterprises to generate and trade with greater autonomy.
- The legal framework is implemented by decree No. 45/CP, the old decree was replaced with a new one. Decree 45/CP had a sufficient number of regulations as a Law on Electricity. It serves as a predecessor of the Law on Electricity.

c. The period from 2004 to present:

In order to make the institutionalization of the Politburo's conclusion the conclusion No.26 - KL/TW dated Oct 21th 2003 on strategy and planning for the development of Vietnam's electricity sector including emphasizing the solution of "The complete study of the legal framework and conditions for early formation of a competitive electricity market". First Law on Electricity of Vietnam was promulgated. It was passed and enforced by National Assembly, and became effective from July 1st 2005.

It is the highest legal framework to help organizations and individuals to engage in electricity activities ensuring socio-economic development. It is the first time there is a fair regulation between the interests of electricity consumers and electricity dealers. Electricity consumers are protected by the Law. And the Law on Electricity also introduced the electricity market for the first time.

Recently, the Drafting Committee for the amendment of Law on Electricity has prepared a report evaluating the result of electricity activities 7 years after the Law of Electricity came into effect. We, the expert review team, agree with the many achievements across various fields listed in evaluation report. At the same time, we also acknowledge the difficulties and inadequacies affecting development objectives and management method in the field of electricity, mentioned in the evaluation report. In particular the difficulties related to ensuring accurate and timely adjusting of the pricing due to administrative mechanisms that hinder the investment and development of the electricity sector. This makes it necessary and urgent to revise and supplement several articles in the Law on Electricity.

However, the Government's reviewing process and assessment report are not sufficiently covering the existing problems and shortcomings of the Law on Electricity from 2004, and the amendments and supplements recommended are not yet sufficiently addressing the existing problems. Consequently, the draft Law on Electricity amendment will not comprehensively improve the legal framework for activities in the electricity sector.

The shortcomings and existing problems not yet sufficiently addressed are:

1. The growth rate of electricity production and electrical energy have annually increased, but in fact our country' electrical energy has always been insufficient (excess of demand over supply) for the past 7 years, especially in the months of dry season and summer. The partial cutting off the electricity still happens frequently. Therefore, it leads to loss of competitiveness in the market.
2. The initial foundation of a competitive electricity market has started to form in Vietnam, which is a positive breakthrough in the electricity competition and trade. However, the process was slow, inflexible. There was also lack of cooperation between different levels. It's confirmed that there is hasn't been any electricity market in Vietnam. Vietnam Electricity (EVN) is still a major exclusive corporation of the electricity trading in the country.
3. In recent years, the operation of Vietnam's electricity market is inefficient and not transparent, especially EVN has caused heavy losses (however it is not only the cause of low electricity prices). This situation makes people less confident than before.
4. The use of electrical energy is not efficient. It causes difficulties in planning of additional charge, easily leads to "virtual planning" and obstructs the orientation of

resource development, as well as affecting socio-economic development of the country.

5. Electricity safety, security, and environmental issues have not been appropriately put in the summary of law enforcement. Hence, it lacks a great deal of the amendment and supplement of Law.
6. Operation of electrical mechanics, equipment, supporting corporations for electricity production, and especially the localization of equipment and accessories in the sector has been neglected. There are not yet any policies responding to these issues and the Electricity Law amendment does not address this problem.
7. The role of new and renewable energy is inadequately assessed in the summary of the Electricity Law activities. For this reason, there is no are no breakthrough recommendations with regard to new and renewable energy in the future power structure of Vietnam in the draft amendment, despite the fact that the world considers new and renewable power as the solution for future electricity use in the era of climate change.
8. In the summary of Electricity Law's Implementation, only the comments of state agencies and electricity corporations are taken into consideration, it does not yet include the consumers' ideas and evaluations. In reality, consumers are very important in developing electricity sector, and Electricity Law globally in general puts emphasis on protecting the electricity consumers.

The eight problems above are neither sufficiently addressed in the Drafting Committee's proposed amendment nor in the Government's summary. We find that these eight problems are indeed the fundamental reasons that there is a need revising and supplementing the articles and chapters of the Electricity Law. And we find that the Law on Electricity amendment must address these problems in order to respond to fundamental contents of the Central Conference Resolution 4 (session XI) on the electricity infrastructure.

I.2. Drafting and submitting to National Assembly

The Drafting Committee and team have been formed under the direction of the Prime Minister. The Ministry of Trade and Industry (MOIT) has been taking the lead in revising process of the Law on Electricity, MOIT has done so in accordance with the process:

1. Process of implementing the Electricity Law for the last 7 years is summarized (reviewed). The final workshops were held in many places and were able to evaluate the positive results of electricity activities, as well as the existing problems in performing the Law on the proposed amendments for the last 7 years.
2. Compose drafts of the proposed amendments and supplements and evaluate socio-economic impacts of the project on Law amendment.
3. Collect written comments of 16 ministries and ministerial-level agencies; 63 Electricity groups and corporations under the MOIT. The draft version of the Law amendment has been publicly posted on the electronic information portal of MOIT.
4. So far the MOIT has prepared many drafts which were submitted to the Government.
5. The Government has held discussions after receiving assessment of the Ministry of Justice. In addition, it has completed the fifth draft (final draft) to submit to the

National Assembly. Along with the fifth draft, an explanation and a demonstration as well as a number of decrees (draft) were attached.

I.3. Comments from expert team

The above order and procedure of Drafting Committee is sufficient and correct under the process of laws development. The Drafting Committee has shown a sense of responsibility for good and adequate amendment. Therefore, draft is eligible to be submitted to the National Assembly.

However, as shown above, we realize that because of incomplete assessment, the draft does not address eight fundamental issues mentioned above. In the drafting process, there are following shortcomings:

- Lack of participation involved in construction or opinions of the vital agencies that we consider indispensable as follows:
 - The Institute of Energy under the Ministry of Trade and Industry. The institute is the only leading agency which has implemented 7 national plans of electricity. Institute of Energy is also the agency responsible for constructing new policies and economic structure for the Energy Sector.
 - Many local agencies, departments especially Department of Technical Safety and Industrial Environment, is the specialized agency, major in state management for safety of electricity since the electricity sector was found. This department also manages area of environment in the Electricity sector. Moreover, it is responsible for State administration in many chapters and articles of the Electricity Law.
 - Due to the lack of participation from the above agencies, assessment is not comprehensive. The reader may feel that the revised Law only focused on handling issues related to electricity trading and market, prices of electricity, the right of regulators ... But other areas which are very important and indispensable were barely mentioned or even ignored in the Electricity Law.
- The Drafting Committee has not collected critical opinions of consumers except for a few of large consumers. More than 20 million customers (about 80 million people) are electricity consumers whose ideas were not gathered. But the customer is one of three objects which has been regulated under the Electricity Law. Consequently, we propose that it's essential to get more critical ideas of the customer before submitting to the National Assembly. This requirement is virtually compulsory when constructing Law on Electricity.

II. PROPOSAL OF MODIFICATION AND SUPPLEMENTATION IN ELECTRICITY LAW

The expert review team agreed on modifying and supplementing the following problems that the Government proposes to amend in the Law on Electricity:

- Electrical planning, type of planning and time of planning
 - Issue of price: a base for setting up price, types of price rate and cost, power of

approving (approval power), process of setting up prices, price rates of electricity in rural areas and islands.

- Electricity activities: type of operation and license for electricity activities
- Electricity Regulation
- Electricity Inspection

The proposed issues that needed to be modified are the eight existing problems presented in part I. We suggest including these issues as further amendments to existing chapters and articles and or as a new chapter in the Law.

II.1 Electricity policy and investment

Team of experts agreed that the articles of the Law on Electricity (2004) are maintained, however, the team proposed additional adjustments as follows:

1. Revise accurate words according to the provisions of other laws:
 - a. Investment project (Item 1 - Article 11) should be changed to construction investment project
 - b. Electricity investment project should be amended into electricity construction investment project (Item 2, Article 12)
 - c. Investment project on Electricity should be changed to investment project for electricity construction (Item 3, Article 12)
2. Item 4, Article 11 on the use of foreign norms and standards, we propose that "In case of applying technical equipment and modern technology", Vietnam has no normative standards, the applied foreign normative standards and regulations must be accepted by authorized agencies.
3. In the terms of Electricity Law, there isn't any article referring to attracting foreign investment and individual investment in the country under BOT, BOO, BTO, IPP and PPP. Therefore, it's necessary to add some article to the law.
4. The Law has nothing to encourage investment in the electrical engineering branch, subsidiary industry or localizing the production of electrical devices in Vietnam. Electrical engineering branch is an important sector, significantly contributing to the reduction of investment costs and cost of product. Accordingly, team of experts proposed to add one article to electricity investment and policies in the Electricity Law.
5. Prime Minister considered and approved electricity development planning and electricity construction investment. Now we have proposed the following additions:
 - a. Approve development plans of national electricity
 - b. Approval of large work of electricity related to investment fund, social safety and security should be consulted by the National Assembly prior to the issuance
 - c. The works are especially sensitive (such as nuclear power, large hydropower, large thermoelectricity) with especially high safety and security requirements,

must be passed by the National Assembly. And in such cases it's necessary to consult the people for such construction.

II.2. Electricity development planning and investment

The following should be noted for the electricity plan: the kinds of electricity plan, period of electricity planning, quality of plan as well as other problems in electricity planning.

a. Types of electricity plan

Law on Electricity 2004 regulates that there are 3 types of plan as follows: national plan, provincial plan, and plan of urban district, suburban district and town. In this session, only 2 kinds of plan are proposed in the government' statement as follows:

- National electricity plan (commonly known as general diagram)
- Local electricity plan (instead of plan of province and district)
After researching, our team of experts realized that it has these 2 levels, but is in fact we still saw other reasonable plans such as: national electricity plan and regional plan exist side by side, provincial plan and plan of district exist side by side, especially in big cities. And this type of plan is also needed because in some cases a plan of district is larger than the other provincial plan. Moreover, the Decree of the Government attached to the statement still recognized a type of district plan (Article 1, Chapter I of the Government's Decree attached to).

Therefore, we propose a flexible mechanism to rationalize the planning as follows:

- Electricity development planning includes National Electricity development planning (including regional plan if necessary);
- It's possible to set up Electricity development planning in urban district, suburban district, and town under provincial plan or city plan if necessary.

This proposal helps many provinces and cities can flexibly apply Laws in planning.

b. The planning cycle

The review team proposes a planning cycle as follows:

1. National electricity plan: vision of planning cycle is 10-years (replace the word "orientation" with "vision"). This proposal coincides with the draft.
2. With regard to the provincial plan the review team has 2 ideas: vision of 5 years and vision of 10 years. Each cycle has particular pros and cons. However, from practice the Institute of Energy - an agency major in planning, proposed a 5-year cycle and vision of 5 years for the following reasons:
 - a. Avoid excessive adjustments for plan of 10 years, and it would be suitable for the local plan of socio-economic development.
 - b. It favors and ensures a better quality of national plan.
 - c. In fact, because provincial planning cycle is 10 years, it still has to be amended after 5 years. Therefore, it's not necessary to make 5-year plan for a 10- year plan that is more expensive due to be amended several times. In the government's explanation, the reason of changing 5 year to 10 year cycle is that the establishment and approval usually extend a year, and the

capacity of staff is limited. This reason is not convincing. Because it only concerns the shortcoming of approach and methods, not content of the law. (See Institute of Energy's statement of comments, this statement by the Institute of Energy has been agreed by many experts). Apart from the cycle issue, we should pay attention to the "milestone" of the cycle. This milestone must be consistent with the milestone of the master planning cycle for socio-economic development.

c. The quality of planning and other issues in planning

The synchronism of the electricity plan with the plans of primary energy needs attention and prioritization. The review team suggests that Item 1, Article 8 should be written as follows: "The electricity development plan must be synchronized with the plan of primary energy sources for electricity generation, also focus on new energy and renewable energy sources". This is because plan of primary energy sources (coal, oil, gas, hydropower and new energy and renewable energy resources) must be approved by Prime Minister so that it can be sufficiently reliable to be introduced into the electricity plan. Currently, there's almost no plan (such as plan of new energy). If there is, the plan is not synchronous or it does not precede electricity plan (as in the primary energy).

Regarding the integration of the electricity plans it is proposed that:

- "Planning for electricity development in provinces, cities directly under the Central Government and regions must not be separated from plan of national electricity development."
- "Development plan of district (if any) must not be separated from electricity development plan of provinces and cities."

d. Regulation of the input data in planning

Input data such as primary energy, GDP, additional charge... must be provided by credible agencies. Besides, these agencies must be held responsible for incorrect data resulting in low reliability of plan and repeated amendments to be made.

e. Sanction in planning

We propose that: In the amended Law the section on electricity planning should also include responsibilities and sanctions of the owner of investment projects who arbitrarily implement or ignore commitments. The Plan 6 must be adjusted more and modified into the Plan 7.

We agreed with the proposed "Research on the National Assembly's rules on plan of national electricity development" by the Committee of Science, Technology and Environment before the Prime Minister approves.

II.3. Competitive electricity market

a. Identify market and approach

According to the draft, Vietnam had the electricity market since making competitive market on electricity generation in early 2012. Therefore, the approach of the Law to competitive electricity market is: "The State should not intervene in price rate of electricity. The State should allow market to adjust in order to help the market comprehensively compete and attract investment to overcome shortage of electricity". We realized that:

- Vietnam does not really have an electricity generation *market*. The reason is: who are the participants of market, apart from state-owned companies and state-owned corporations, the foreign and private investors makes up a very small proportion.
- The whole of transmission and retail distribution systems use state capital.
- All electricity consumers (customers) only have one place to purchase electricity and they do not have any choice. The electricity sector is still a monopoly, it is a government monopoly called "natural monopoly".

So the viewpoint that “the State should not intervene in the electricity sector” is not acceptable. Furthermore, prices of electricity will affect all of society and the life of the people due to difficult circumstances of macroeconomic stability. For this reason, The State still regulates and intervenes in this sector.

We suggest the following:

- "During the transitional period, in order to get a competitive electricity market, all electricity activities must be associated with each stage, each period, and each level of the electricity market."
- About electricity price, Item a, Article 29 of amended Law on Electricity has stated: "Electricity price which follows the market mechanism, is regulated by the State". We would like to suggest it being rewritten as follows: "Electricity price which is correctly and fully calculated and flexibly adjusted according to market levels are regulated by the State."

b. Principles of market operation

Item 1 of Article 17 wrote: “To ensure publicity, equality and fair competition ...” Team of experts suggested that it should add the word "transparency", specifically written as follows: "To ensure publicity, transparency and equality ...

c. Participants in the electricity market

Article 19 regulates that there are 8 participants in the electricity market including “Executive unit of transaction in electricity market”. In fact, there is no unit participating in this operation except for Electricity Regulatory Bureau since the promulgation of the Law on Electricity. So it would be more accurate to write “Electricity Regulatory Bureau” rather than “Executive Unit”.

But in our viewpoint, if it is the Electricity Regulatory Bureau, this Bureau is already a State management agency under the MOIT, responsible for advising the Minister to form electricity market, and inspecting activities of participants. This Bureau cannot be a management agency of the State and an Electricity unit of the market at the same time. If so, the Bureau would be “playing the role of the sportsman and the referee at the same time” as the pre-1990 period when state management and self-control in business of enterprises are not separate as mentioned in part I.

Therefore, we recommend that if this article is maintained, a new unit must be set up that is separate from the Electricity Regulatory Bureau. If not, Item 7, Article 19 should be removed.

d. Pricing Structure:

The types of prices and fees: Under the provisions of 2004 Law, there are 3 types of prices: 1) price of electricity generation, 2) wholesale prices, and 3) retail prices. And there are 5

types of fees: 1) transfer fees, 2) electricity distribution costs, 3) moderate costs, 4) costs of operating market transactions, and 5) auxiliary service fees.

Now the Government proposes the National Assembly to change into 6 types of price:

- Frame of electricity generation price
- Price of electricity transmission
- Price of electricity distribution
- Wholesale prices of electricity
- Price of auxiliary service
- Retail price of electricity

And two types of fees:

- Costs of market operation and moderation
- Executive fees of transaction in electricity market. (In a detailed statement of the Government dated on March 30th, 2012, Item 5-3, Article 5 has recorded an additional “costs of electricity regulation”. So are the operating costs and regulatory fees one or two types of fee?)

Our viewpoints on the above proposal:

- We agree that 3 types of fees should be moved into 3 types of price (transmission, distribution and auxiliary services). But the name of fee: "frame of electricity generation price" should be called “average generation price" or simply called "price of electricity generation".
- We don't agree that executive costs of transmission should be reduced in electricity market, because there is no unit called “executive unit”. If the executive unit is the Electricity Regulatory Bureau, this type of fee should be called regulatory fee. Even so, the term “regulatory fee” is not even correct because the Bureau is a State management agency, likes other Bureaus under the Ministry. The same Bureaus have duties on the management including management of electricity activities (such as Department of safe technology and industrial environment), and as State Administration it should not receive any kind of fee. This fee is very sensitive to people. And it should not be compared with the Frequency Department, because these rules have reduced the role and functions of the Electricity Regulatory Bureau, which is a Bureau among specialized inspection Bureaus. And if the Bureau of Regulation receives fees, should the other Bureaus under the MOIT also receive? This is unfair and unfeasible.
- We agree to have "moderate fee" but it is necessary that the articles in the law clearly identify *who* should be paying and *what rate of fee*. If the fees are collected from the electricity generation, transmission and distribution enterprises, moderate fees should be changed into moderate price.

To correctly reflect the market mechanism in the electricity business, the review team requests the following:

- Commonwealth electricity and supported electricity should not be introduced into the structure of average electricity price.

- Price of productive electricity does not cover price of household electricity and vice versa. And price of urban areas does not cover price of rural areas and vice versa.
- Besides, the price can be studied according to various regions.
- Price of capacity and price of electrical energy should be added to productive electricity.

e. Agencies and units setting and approval of electricity prices

With regard to the average electricity price, the expert team agrees that:

- The MOIT should determine the frame of average electricity price and will be responsible for guiding the process, including method, process, and procedure of determining this kind of price.
- Based on the given instructions, Electricity Units set up the components of electricity price to calculate the average electricity price. MOIT will then appraise and approve.

The retail price of electricity is the most important type of price. And people are interested in this type of price because it directly relates to people and all social activities. Therefore, we recommend that:

- The Prime Minister approves the frame of average electricity retail price and structure the price list of retail electricity.
- EVN is responsible for organizing retail units to construct retail price and then submit to the MOIT and Ministry of Finance.

Adjustment of the electricity price: To ensure the timeliness of the market when there are price fluctuations of electricity input; and to facilitate electricity dealers. We suggest that:

- The government should have an article which regulates the amount of adjustments to be made (such as rates of increasing and decreasing as well as certain period of time to increase price. From that point, EVN can flexibly adjust) when market has input volatilities.

f. Forming, structuring and adjusting price of electricity based on:

Basis of forming the price:

- Policy of electricity price,
- Currency exchange rate,
- Specific situation of the input fuel and hydroelectric reservoirs,
- Calculating reasonable expenses while having inspection.
- The relationship between supply and demand of each period in the market and a reasonable profit for Electricity Unit,
- Financial statements are audited.

Adjusting electricity price based on:

- Based on conditions of socio-economic development of the country and people's income in each period.
- Electricity price increasing effects on prices of other field.

- The Government and the Prime Minister should decide the levels of adjustment and regulations of the price of electricity in each period.
- In order to accurately audit, price structure of the retail price for the group of customers should not be too excessive as of now. This already leads to difficulties for auditing unit and easily results in fraud in the process of implementation.

II.4. Safety, security and electricity environment

In the scope of Law on Electricity, the regulations on safety, security and environment are disorderly and insufficiently mentioned. It does not form specific articles for the Government to arrange to implement. It doesn't have the necessary sanctions, especially the regulations across various levels for inspection units to monitor, control and punish.

According to plan of national electricity development, Vietnam's electricity system will develop with a high speed and on a very large scale at the following period. In which, about aspect of input, there are many new establishments such as: thermal power plants have very large capacity with ultrahigh-parameters, and hydroelectric power plants including hydroelectric energy storage with very large capacity and dam system.

For the first time, nuclear power plants have been established in Vietnam.

On the grid: electricity network has 700kv, 1000kv or greater electric potential (over existing 500kv).

In addition to the electricity network of electricity centers across 3 regions, there is integration with the electrical system of the various countries in the area. These projects appear to actively contribute to the development of Electricity sector. However, they maybe cause negative issues, implicit risks, even disasters for the electricity market and the national economy as well as for life of many people.

Therefore, there is a proposal to add a new chapter called ELECTRICITY SAFETY, SECURITY AND ENVIRONMENT.

This chapter may be substituted for chapter 7 of the Electricity Law named "Protection of electrical equipment, electrical construction and electrical safety". The contents of this new chapter shall include items and articles of specified regulations as follows:

- Include 3 Items: Item I: Safety; Item II: Security; Item III: Environment
- Clearly define 3 concepts of electricity safety, electricity security and environment safety
- Identify the level of safety and security: When should we define level of the security incidents as a local scale? Or Regional level security? Or National level? Or a disaster level? Besides, it should have provisions of time when status of emergency is announced. In that case, Status of emergency is announced by whom? What level? Who will be held responsible for processing procedures and handling emergency situations?

With regard to electricity safety, Electricity Law's Chapter 7 is quite adequate. Because there was already a nuclear power plant, special regulations of nuclear safety in accordance with the Atomic Energy Law should be added.

There is a need to have security regulations on the national grid system, in case when unexpected incidents (natural disasters) lead to loss of power or disintegration in the system. It's necessary to have rules, processing procedures and punishment process (if any).

Regarding the environment must specify the phrase: "sustainably develop electricity" through specific articles of Law. For example, specify the safety standard for pollution of solid waste, exhaust gas, sewage; regulate the development of Green Electricity Industry for saving fuel, electrical energy; reducing greenhouse gas; safely coping and adapting with climate change.

When incidents occur, the seriousness of the violation decides the handling of administration, economy or criminal. At the same time, it's necessary to compensate the people for disasters and incidents which are caused by Electricity side such as broken hydroelectric dam, flood discharge violated the provisions, thermal pollution, influences of electromagnetic fields and so on. Especially, it's necessary to have provisions of compensation for people when having nuclear disaster.

II.5. Savings in electricity generation, transmission, distribution and consumption

Because this chapter is well written, we agree with the articles of Electricity Law. However, this chapter only refers mainly to the "Saving", while "efficient energy use" is not defined specifically, efficient energy use is more significant than "saving". And only by solving the issue of inefficient use, we can reduce elastic coefficient from 2 to 1 as the Central Resolution 4 proposed before. Therefore, we recommend that:

- It's essential to have the provisions related to choice of technology in new investment projects while deciding to approve these investment projects.
- There should be articles that encourage the implementation of "Law on using energy economically and efficiently"; and at the same time exclude factories with large rate of electricity consumption.

II.6. State management of electricity

a. About agency and content of electricity regulation

As prescribed in electricity activities, there are following activities:

- Construction of electricity development policy and plan
- Investment of electricity development
- Production and trade of electrical energy (competitive electricity market)
- Electricity safety and security and environment
- Electricity inspection
- Prime Minister of the Ministry of Industry and Trade is responsible for State management of electricity activities.

In order to assist the Minister of MOIT in implementing good guidelines and management, special divisions are very necessary to advise and manage each work based on principle of non-overlapping, and on the principles of state management which does not take part in the work of production and trade companies to ensure the self-control and independence of enterprises as Law on Enterprises regulated. For this reason, the above special divisions of MOIT are the general directorates and special agencies. Specifically, the Ministry of Industry

and Trade has the following agencies which are responsible for management of electricity activities:

- The Directorate-General for Energy is responsible for issues of policies and planning
- The field of investment is allocated to the Directorate-General for Energy
- The field of production and trade (electricity market) is assigned to Electricity Regulatory Bureau

Regarding Safety and Environment, MOIT assigns to Department of Safe Technology and Industrial Environment

Regarding electricity inspection: comply with the Inspection Law. There are state inspection at the Ministry, State inspection at the Department of Industry and Trade, electricity inspection at the Ministry of Industry and Trade (General Department of Energy), Industrial Safety Techniques and Environment Agency, Electricity Regulatory Bureau. Besides, there are many Bureaus such as the Bureau of Labor Safety under the Ministry of Labor, the General Directorate of Measurement, Bureau of Environmental Investigation under the Ministry of Public Security, Quality Assessment Bureau under the Ministry of Construction, Bureau of Fire Protection under the Ministry of Public Security.

All of the above Bureaus operate within the scope of their responsibilities under the law. Therefore, the Electricity Regulatory Bureau is tasked to advise the Minister to form Vietnam's electricity market model and follow up route of that market. In such duties, the contents of electricity regulation must be included in the scope. But in Item 1 of Article 66 as well as in and detailed explanations of the Government, we realize that there are many overlapping functions of Electricity Regulatory Bureau with "other agencies" (the General Directorate or another Bureau) and the overlap between State management agencies and enterprises. Therefore, we recommend that it's necessary to consider and rewrite these rules in this Law.

b. About the inspection

In accordance with the Law on Inspection No. 56/2010 QH 12 and Decree No. 86/2011/ND-CP, which regulates and guides the implementation of some articles of the Law on Inspection, there are 2 types of state inspectors which are special inspectors such as the Ministry of Industry and Trade's inspector and Department of Industry and Trade's inspectors. In this case, the MOIT's inspectors and Department of Industry and Trade's inspectors are responsible for administrative inspection to agencies managed by the Minister, Director - Electricity inspectors are responsible for electricity inspection.

According to Decree on Inspection Law, there are various agencies which have duties of electricity inspection under the MOIT as follows:

- General Directorate of Energy
- Department of safe technology and industrial environment
- Electricity Regulatory Bureau

Carrying out the procedure according to a guiding decree, the Ministry of Industry and Trade will have an agreement with government inspectors to have an official decision on the General Directorate and Bureaus which are agencies of specialized inspection on electricity. Thus the organization of inspection and inspection of Electricity Law (Article 67) proposes to

write as follows: "Inspectors of the Ministry of Trade and Industry, Department of Trade and Industry's inspectors, agencies which are responsible for the special inspection on Electricity such as General Directorate, Bureaus under Ministry, and Branches under the Department in accordance with the Law.

c. Structure of Electricity sector and organizational structure of the electricity market

- Clearly clarify the regulations of function and tasks of the specialized agencies to help the Ministry to implement the State management of electricity and avoid overlapping of functions, duties and inconsistencies with other provisions in the legal system. Specifically, they are functions, duties and powers of the General Directorate of Energy, Electricity Regulatory Bureau and other Bureaus related to electricity activities.
- Clearly distinguish between the functions, duties and powers of agencies of state management and function of activity of enterprises. In this Law, they are agencies operate in Electricity sector such as Electricity Regulatory Bureau and Electricity Units.
- There is a proposal that suggests re-establishing the Ministry of Energy to lead Energy sector more closely and efficiently.
- There is an idea in which agency of nuclear electricity should be set up not under the MOIT. This agency manages, constructs and explores nuclear electricity plants. This agency has competences to approve safety, license and inspect nuclear electricity.

III. CONCLUSION

In a short time (20 days), team of specialized experts has seriously studied the documents submitted to the National Assembly on revised Law on Electricity. We have finished this report to highlight big issues, but the specific details will be reported later. We would like to submit this report for Committee on Science, Technology and Environment under the National Assembly. Please allow this to be sent to the related agencies, delegations of NA so that they consider this as a reference to discuss more effectively.

Report respectfully

On behalf of expert review team

Team leader

Ph.D. Ngo Duc Lam

Disclaimer

Rosa-Luxemburg-Stiftung financially supported this review. However, the content of this document is the opinion of the author. It does not necessarily reflect the opinion of Rosa-Luxemburg-Stiftung. Rosa-Luxemburg-Stiftung takes no responsibility for the accuracy or legitimacy of the information or opinions provided here.