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# MHM VIETNAM

## Newsletter

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## DECREE NO. 06/2022/ND-CP OF THE GOVERNMENT ON MITIGATION OF GREENHOUSE GAS EMISSIONS AND PROTECTION OF THE OZONE LAYER

On 7 January 2022, the Government adopted Decree No. 06/2022/ND-CP ("Decree 06") introducing measures to mitigate greenhouse gas ("GHG") emissions, protect the ozone layer and organise and develop a domestic carbon market, as stipulated under the Law on Environment Protection 2020. This is one of the steps taken by the Government of Vietnam to achieve its commitments to reduce national emissions and adapt to the impacts of climate change under international conventions.

Set out below is a summary of the key points of the Decree.

### 1. Mitigation of GHG

- 1.1 Under Decree 06, certain facilities under the list of GHG emitting sectors and facilities (as described below) ("**GHG Facilities**") are required to conduct a GHG inventory, which involves collecting information and figures about GHG emission sources, calculating GHG emissions and absorption in a specified area and in a specific year using methods and processes approved by the competent authorities, and are obliged to reduce GHG emissions.
- 1.2 GHG Facilities are defined as facilities with annual GHG emissions of 3,000 tonnes of

carbon dioxide (CO<sub>2</sub>) or its equivalent<sup>1</sup> or more or any of the following facilities:

- (i) thermal power plants and industrial production facilities with total annual energy consumption of 1,000 tonnes of oil or its equivalent (“TOE”)<sup>2</sup> or more;
- (ii) cargo transport trading companies with total annual fuel consumption of 1,000 TOE or more;
- (iii) commercial buildings with total annual energy consumption of 1,000 TOE or more; and
- (iv) solid waste treatment facilities with annual operating capacity of 65,000 tonnes or more.

1.3 In this regard, the Prime Minister issued Decision No. 01/2022/QĐ-TTg on 18 January 2022 listing the GHG emitting sectors and facilities subject to GHG inventory (“**Decision 01**”).

1.4 Decision 01 lists:

- (i) 21 GHG emitting sectors divided into six groups: (1) energy, (2) transportation, (3) construction, (4) industry, (5) agriculture, forestry and land use, and (6) waste;
- (ii) certain GHG Facilities, being 1,662 facilities in the industry and trade field, 70 facilities in the transport field, 104 facilities in the construction field, and 76 facilities in the natural resources and environment field.

1.5 Most large manufactures in Vietnam (e.g., Samsung, Yamaha, Honda, Panasonic), coal-fired power plants (e.g., Mong Duong 1, 2, Vung Ang 1, Vinh Tan 1, 2 and 4) and hotels and department buildings (e.g., Lotte Centre Hanoi, Aeonmall Long Bien, Bitexco, Saigon Centre, Vincom Dong Khoi, Vincom Royal City) are listed as GHG Facilities under Decision 01. Pursuant to Decree 06, the government shall review and revise this list periodically via a process whereby a draft list of GHG Facilities is reviewed by the Ministry of Natural Resources and Environment (“**MONRE**”) and submitted to the Prime Minister for his promulgation every two years.

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<sup>1</sup> A carbon dioxide equivalent or CO<sub>2</sub> equivalent is a metric measure used to compare the emissions from various GHG on the basis of their global-warming potential (“**GWP**”) by converting amounts of other gases to the equivalent amount of carbon dioxide with the same GWP. For example 1kg methane (CH<sub>4</sub>) emissions can be expressed as 25kg of CO<sub>2</sub> equivalent ([https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Carbon\\_dioxide\\_equivalent](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Carbon_dioxide_equivalent)). Decree 06 also defines a tonne of CO<sub>2</sub> equivalent as the mass of other GHGs converted into tonnes of CO<sub>2</sub> according to their GWP. The GWPs of GHGs are specified by the Intergovernmental Panel on Climate Change (“**IPCC**”).

<sup>2</sup> TOE is a normalised unit of energy. By convention it is equivalent to the approximate amount of energy that can be extracted from one tonne of crude oil. It is a standardised unit and may be used to compare the energy from different sources. Other energy carriers can be converted into TOE using conversion factors. For example 1 tonne of diesel = 1,01 TOE, 1 tonne of petrol = 1,05 TOE, 1 tonne of biodiesel = 0,86 TOE ([https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Tonnes\\_of\\_oil\\_equivalent\\_\(toe\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Tonnes_of_oil_equivalent_(toe)))

- 1.6 GFG Facilities under Decision 01 and its future iterations must carry out a GHG inventory<sup>3</sup>, formulate and perform plans for the mitigation of GHG emissions, measure the GHG emissions mitigation results and report on their GHG emissions mitigation result.
- 1.7 In particular, GHG Facilities must, among others:
  - (i) Every two years on and from 2023: provide operation data and other relevant information for conducting a GHG inventory of such Facilities for the year(s) before the reporting period in accordance with the guidance of relevant ministries by 31 March;
  - (ii) Before 31 December 2025: Formulate a plan to mitigate GHG emissions for the period from 2026 to 2030 for submission to competent authorities and report any update or adjustment of such plan (if any);
  - (iii) Every two years on and from 2025: (i) carry out GHG inventory and formulate a GHG inventory report which must be sent to the Provincial People's Committee for appraisal by 31 March of every reporting period from 2025; and (ii) complete the report on GHG inventory result and send such report to MONRE by 1 December of every reporting period from 2025;
  - (iv) From 2027: measure the GHG emissions mitigation result and formulate a report on mitigation of GHG emissions annually for submission to competent authorities.
- 1.8 For GHG Facilities which are cargo transport trading companies we can determine to whom the requirements and obligations applicable to the GHG Facilities are imposed. For other GHG Facilities, it is not clear at law whether the requirements and obligations applicable to such GHG Facilities are ultimately imposed on the GHG Facilities' owners, lessees (if any) or operators, or all of them.

## 2. Domestic carbon credit market

- 2.1 Based on the results of GHG inventory and GHG emissions mitigation by GHG Facilities, the MONRE plans to prepare and submit for the Prime Minister's approval the total quota on GHG emissions, in order to establish a domestic carbon credit market in Vietnam. That quota will then be allocated to each GHG Facility for the period from 2026 to 2030 and annually.
- 2.2 It is expected that the GHG Facilities will participate in the domestic carbon market in

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<sup>3</sup> GHG Inventory methodology will be applied in accordance with the guidance on GHG inventories of IPPC (see <https://www.ipcc.ch/2019/05/13/ipcc-2019-refinement/>)

order to trade carbon credits and GHG emissions quota. GHG Facilities will need to apply for a certificate on carbon credits and GHG emissions quota issued by the MONRE for trading on the carbon trade exchange.

- 2.3 According to the roadmap for the establishment and development of the domestic carbon credit market set out under Decree 06, a pilot scheme will operate from 2025, while the operation of the market is expected to officially commence from 2028.

### 3. Protection of the ozone layer

3.1 Decree 06 provides a list of eight controlled ozone-depleting substances (Bromochloromethane, Bromochloromethane, Chlorofluorocarbon, Halon, Hydrobromofluorocarbon, Hydrochlorofluorocarbon, Methyl bromide and Methyl chloroform), a greenhouse effect-causing substance (Hydrofluorocarbon) and a roadmap for management and elimination of such substances.

3.2 Before 31 December 2022, all organisations are required to register the use of the controlled substances described in paragraph 3.1 above with the MONRE if such organisation carries out the following activities in Vietnam:

- (i) import, export or manufacture of the controlled substances;
- (ii) manufacture, import or own equipment or products having or produced from the controlled substances; or
- (iii) collect, recycle, reuse or handle the controlled substances.

3.3. Such organisations are also required to submit to the MONRE an annual report on the use of controlled substances.

3.4 With respect to certain controlled substances (Hydrochlorofluorocarbon and Hydrofluorocarbon), the organisations mentioned in paragraph 3.2 above can only manufacture or import such controlled substances in accordance with the quotas allocated to such organisations by the MONRE. They may apply to amend or supplement the allocated quotas by sending a written request to the MONRE.

3.5 From 1 January 2024, organisations that manufacture, import or own equipment or products having or produced from controlled substances must collect the controlled substances that are no longer used and are encouraged to recycle and reuse, or otherwise handle such controlled substances in accordance with the environmental regulations.

If you have any questions or would like further details regarding this issue, please contact our lawyers listed in the left-hand column.

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