



**FDIs IN ENVIRONMENTAL GOODS AND SERVICES (EGS) AND
KEY POLICY ISSUES FOR PROMOTING INFLOWS OF FDI IN
EGS IN VIETNAM**

Final

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SERVICES”**

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Abbreviations

ACCSQ	ASEAN Consultative Committee for Standards and Quality
ACFTA	ASEAN-China Free Trade Agreement
ACIA	ASEAN Comprehensive Investment Agreement
ACNNR	ASEAN Agreement on the Conservation of Nature and Natural Resources
AFAS	ASEAN Framework Agreement on Trade in Services
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Area
AIA	ASEAN Investment Area
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South East Asian Nations
ASCC	ASEAN Socio-Cultural Community
ASCM	Agreement on Subsidies and Countervailing Measures
EGS	Environmental Goods and Services
EIA	Environmental Impact Assessment
EVFTA	EU-Vietnam Free Trade Agreement
EVSL	APEC's Early Voluntary Sectoral Liberalization
FDI	Foreign Direct Investment
FIT	Feed-in-tariff
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade and Services
GPA	Government Procurement Agreement
IAP	Individual Action Plan
LCR	Local content requirement
MFN	Most favoured nation treatment
MPI	Ministry of Planning and Investment
MOIT	Ministry of Industry and Trade
MOF	Ministry of Finance
MONRE	Ministry of Environment and Natural Resources
MOST	Ministry of Science and Technology
NGO	Non-Governmental Organization
SCM	Subsidies and Countervailing Measures
TBT	Technical Barriers to Trade

TPP	Trans-Pacific Partnership
TRIMs	Trade-Related Investment Measures
TRIPs	Trade-Related Intellectual Property
WTO	World Trade Organization

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Executive Summary

Background

The development of EGS probably paves the way for the reduction of air, soil and water pollution, along with fewer pollutants released from production process. It has become a crucial objective for Vietnam's Government, as it addresses the conflict between the objectives of economic growth and environmental protection in the country. EGS will be a sector which will be capable of promoting both the economic development and environmental protection.

The pace of EGS development in Vietnam is not parallel with the demand and its potential market. Almost all enterprises in the field of environmental goods focus on the import of machineries and technologies from other countries and the number of the enterprises is very limited (around 15 enterprises in 2014¹); meanwhile, the enterprises in the field of environmental services specialize in collection, treatment and disposal of waste, waste recycling and water supply, accounting for around 30-35% of environmental protection demand.

Most of the enterprises operating in the field of EGS are domestic firms, of which, the number of FDI enterprises is very limited, regardless of the upward trend in recent years. The number of FDI enterprises in ES increased from 8 to 31 in 2013, most of them are allocated in Ha Noi and Ho Chi Minh City.

Work on promoting FDI on EGS forms part of the European Trade and Investment Support Project (EU-MUTRAP IV), the aim of which is to support the upgrading and completion of the policy framework in Vietnam. The paper provides significant advice to the line ministries interested in the field such as MONRE, MOIT and MPI to boost the inflows of EGS investment in Vietnam. Attracting more investment, particularly foreign investment in EGS could be beneficial to Vietnam's environment and assist the country in achieving its goals for green growth.

Encouraged policies to promote FDI in EGS

The Government has made substantial progress in the development of the legal base for EGS and the policy framework provides a sound basis for attracting FDI in EGS. Advancing EGS as one of the important solutions to address the environmental issues, to generate more income and jobs for people is reflected in highest level national documents such as the Viet Nam Socio-Economic Development Strategy (SEDS) and Plan (SEDP) and the Viet Nam Green Growth Strategy (VGGS); relevant Laws such as the Law on Environmental Protection 2014, Law on Corporate Income Tax in 2008 and the revised Law no. 32 in 2013, the Investment Law 2014, the Law on Import-Export Tax 2005 and the Land Law 2013; and key sector documents such as the Decision No. 1030/QD-TTg dated July 20th 2009 on scheme of development of environmental industry until 2015 and vision toward 2025 and the Decision 249/QD-TTg on February 10th 2010 on the approval of Plan for Environmental Services Development by 2020.

¹ Vietnam Institute for Trade, 2015

Furthermore, to encourage the development of foreign-invested sector and to improve the quality and effectiveness of FDI, the Government promulgated the Resolution No. 13/NQ-CP dated 7th April 2009 on orientations and solutions to attracting and managing foreign direct investment funds. For the current stage, the Government approved the Resolution No. 103/NQ-CP dated 29th August 2013 on orientations to increase efficiency of attracting, using and managing FDIs in the future. They both are purposed to call for an increase in FDIs with modern and environmentally friendly technologies.

Investments in the sectors of EGS, like any others, are subject to the general laws of Vietnam affecting investments. All investment activities are regulated by the Law on Enterprise, the Law on Investment (both of which were passed by the National Assembly in 2014 and became effective on 1 July, 2015) and the Law on Corporate Income Tax (CIT) in 2008 and the amended CIT Law in 2013, which entered into force in 01/1/2014. Besides these, investment and business activities are also regulated by other laws, such as the Law on Import and Export Duties, the Law on Value-Added Tax, the Land Law, the Law on High Technology, and the Law on Intellectual Property Rights. The current laws of Vietnam offer several investment privileges and incentives to investors who develop projects in encouraged investment sectors and/or geographical areas. Incentives are scattered in many laws and regulations, but mainly comprise of (i) tax incentives, (ii) incentives related to import duties, (iii) incentives on land use, and (iv) accounting incentives.

International framework affecting EGS and FDIs in EGS in Vietnam

Overall, treaties, agreements, or commitments at the international, regional, or bilateral levels form an international framework to a certain extent affecting policies related to EGS and FDIs in EGS in Vietnam. The binding level of these agreements or commitments is not the same. To be more precise, the WTO and ASEAN commitments are obligatory for the Member States, while institutions like APEC primarily have symbolic meaning and rely on private decisions of each country. The TPP which Vietnam recently signed will have a profound impact in the field of the environment in general and on the EGS sector in particular. Actually, if delving into these agreements, very few of them directly address the EGS; however all policies related to investment, environmental protection, trade in goods and services, market liberalization, and other regulations have a considerable influence on the development of EGS in Vietnam.

General assessment

The market of environmental goods and services in Vietnam has not yet formed explicitly. The number of FDI enterprises in the field is still limited, despite the fact that they have already generated substantial profits for the investors and interesting tax return for the Government. The reasons are the limitation of the framework and its practical implementation. Therefore, there is an urgent need to complete and adjust the policy framework to effectively attract more FDIs in the sector of EGS. This involves developing specific regulations that will create incentives for investments in EGS.

The policy framework including several laws, regulations, ordinances and directions aimed at supporting enterprises that are active in the sectors of EGS has been formulated. The framework

is an essential ground for the development of EGS in Vietnam. It offers substantial incentives to enterprises investing in the sectors of EGS. It also provides detailed technical regulations and standards in the sectors of construction and industrial activities. The implementation of the framework has contributed to making positive changes in the field.

The EGS classification has been reflected in the national statistics system of product industries classification of Vietnam. However, the products and services related to the field are scattered in the several sub-sectors. It leads to difficulties in monitoring and reporting their state as well as their role in economic development and environmental protection.

Furthermore, one notable point under the Law of Enterprise 2014 is that there is no distinction between domestic investment and foreign investment as before. Both the foreign and the domestic are encouraged to invest in the encouraged sectors identified in the Law. The regulation will create a fair competition between the domestic and foreign investors. It cannot reduce the effectiveness of FDI on EGS once the investor realize its potential benefits and profits.

International trade agreements which Vietnam has signed or negotiated have a substantial influence on EGS and the attraction of FDIs in EGS in Vietnam. These agreements are quite diverse in geographical scope, levels of binding, or the relevance of specific provisions related to EGS. Generally, the WTO, APEC, TPP, EVFTA, ASEAN agreements, as well as various bilateral agreements highlight the issue of market access, liberalization of trade and create the conditions for investment flows into the Vietnamese market in many sectors, including EGS. Taking advantage of the opportunities from these agreements will promote the development of the EGS market in Vietnam. On the other hand, the underlying risks are also huge and Vietnam should have proper preparations or adaptations as joining in these institutions.

Recommendations

Improving the EGS legislation system

To enhance the promotion of FDIs in EGS, Vietnam needs to apply a comprehensive system of solutions, synchronizing with an appropriate roadmap, focusing on the priorities: firstly, making a list of clear and consistent EGS and specific policies related to EGS; the rest involves improving the business environment, administrative reform, trade liberalization, open markets, promoting green procurement from the government, establishing appropriate incentives and subsidies, reviewing the system of standards and regulations, and considering relevant lessons from other countries’.

EGS list

It would be useful to develop an official list of EGS which would clearly benefit from the incentives the Government of Vietnam wishes to provide. Such a list would provide credibility and certainty for potential investors. Currently, the list of environment services (ES list) has been identified by consolidating the Decision No. 39/2010/QĐ-TTg, promulgating the system of Vietnamese product categories and Article 150 of the Law on Environmental Protection (LEP) 2014 on classification of environmental services. However, the list of environment goods

has not been formed, for its definition has not been clarified yet. It leads to the difficulties in monitoring and accessing the FDI state for the field. Therefore, it is high time to formulate the list. During drawing the list of EGS, Vietnam should also consider the existing APEC list which is relatively detailed and complete.

Business environment

In order to foster investments in EGS, like for all investments, providing a good business environment is a leading determinant. While market opportunities in EGS are obvious, the need to improve certain elements of Vietnam's business environment affecting EGS is essential. Those include:

- Provision of a clear legal framework guiding policies on EGS and renewable energy projects;
- Establishment of a single point of contact for enterprises;
- Adoption of simplified and harmonized administrative procedures;
- Establishment of a 'one-stop-shop' governmental service accompanying investments ventures and their registration, business licenses and authorizations;
- Provision of channels of communication between the government and the companies with all official information emanating from the Government;
- Publication of an easy access to all relevant legislation and standards;
- Provision of training on the application of new environmental regulations;
- Adoption of unified procedures related to authorization and environmental regulations throughout the country;
- Application of the same control systems to FDIs and local companies;
- Drafting of laws and regulations in a way that is easy to understand and implement;
- Consultation of companies when the Government plans to develop and introduce new legislation;
- Adoption of a transparent bidding law on construction of environmental protection projects;
- Raising more public awareness of EGS;
- Ensuring the application of the law and strengthen enforcement mechanisms of laws and contracts;
- Protection of the most vulnerable populations in case of granting land concessions for the production of EGS.
- Adjust the price tariff related to the investment rates, the cost of treatment and lost in treatment of waste accordingly to location and type of technology.

Trade Liberalisation

A recommendation for Vietnam would be to consider implementing the tariff reductions on environmental goods proposed under APEC. Accordingly, the Government of Vietnam should decide whether existing tariff lines may be used or if there is a need for new ones. The new tariff lines would serve to apply reduced tariffs to “environmental goods” (“ex-outs”), not to inadequate “non- environmental” products under the existing tariff lines. This, however, may be a rough exercise which requires specialised expertise.

Vietnam may wish to consider offering more opportunities for market access for foreign services and service suppliers than those covered in its WTO or ASEAN commitments. The country may also wish to extend the benefits of its commitments to other environmental services sectors. Such measures would better ensure the availability of the services concerned and foster dynamic and competitive markets in these sectors.

Incentives and subsidies

- A clear recommendation for Vietnam would be to provide well targeted financial incentives according to clearly identified objectives.
- Promote public-private-partnership in environmental services. Private and public sector should cooperate in a process of identifying the market failures that would warrant a subsidy.
- When programming an incentive scheme, recommendations concerning transparency, clarity, sharing of risks with private sector, adequate public administration, neutrality and external evaluation of the subsidy deserve careful attention.
- In order to avoid a possible action against a subsidy and for effectiveness purposes, it is preferable to provide subsidies that focus more on activities than sectors.
- It is important to establish a mechanism for the systematic assessment of the impact of an incentive on the competition in the market and to identify the economic operators that may be negatively affected by the subsidy and who are likely to complain.
- Export subsidies or subsidies contingent upon the use of domestic input as opposed to imported goods are prohibited. A subsidy therefore cannot be connected to a LCR or to a FIT if the latter operates in practice as a local content scheme (this could be the case in the wind and solar sectors).
- Subsidies should be granted only if they are necessary to create effective incentives and only until the obstacles justifying them exists. As a general rule, subsidies should only be temporary and subject to a sunset clause. The costs and distortions of the subsidies should be kept to a minimum.
- Should private investment be missing, the Government could consider investing itself, directly or through joint investments with private operators in clean energy projects.

Public procurement

- Vietnam should consider fostering green public procurement as a proven method to make use of investments in EGS. Furthermore, the international legal system does not prevent Vietnam from this action.
- Vietnam should ensure that its public procurement regulations enable the use of a criterion of “best value for money,” as opposed to “lowest price.” Such criterion enables to integrate the benefits to the environment into the value of the contract.
- Procuring entities in Vietnam should define bidding requirements related to EGS with precision.
- It would be important to share information among procuring entities throughout the country and sensitize them to environmental objectives.
- The Government of Vietnam should convey its policy and needs regarding green procurement to the private sector and experts of the area.
- It would be important, in the selection of bidders, to find the right balance between the need of using proven technology and experienced bidders and the need of encouraging innovation.

Others

- Vietnam should exercise caution before imposing antidumping duties on imports of environmental goods, even if its domestic industry may complain about them. However, at the moment, this does not seem to be an issue in Vietnam.
- Nevertheless, should Vietnam receive an antidumping complaint from its domestic industry of EGS (such as producers of clean fuels or of the tools for the production of clean energy), it must keep the right balance between increasing the use of affordable EGS and promoting investments in the production of such EGS in its territory. This depends on many factors, such as the availability and quality of the local products in Vietnam, local production capacity and capacity utilisation of the products concerned.
- Vietnam should review and assess the impact of all its standards and technical regulations that are relevant to EGS, so as to ensure that they bring the obvious benefits of well-conceived standards, while not undermining innovation, access to technology and the competitiveness of the authorized products.
- Vietnam should ensure that the adequate level of intellectual property protection is offered for innovations in the field of EGS, in accordance with the WTO TRIPs Agreement. Vietnam could also consider elaborating a ‘fast-track’ process for patenting clean energy technologies.

Clear definition of roles and responsibilities, as well as mechanisms for coordination between the line ministries

The clear definition of roles and responsibilities, as well as mechanisms for coordination between governmental bodies, namely the MOIT, MONRE, and MPI, is important for the

development of EGS and promotion of FDIs in EGS in Vietnam. The role of MOIT is essential for the development of EGS in general; MONRE's role is in technical assistance and to create policies to promote environmental services as well as responsibility of the establishment of the ES list, while MPI's role is to facilitate expansion of FDI attraction. The local authorities will play a key role in the development and attraction of FDI in their mandates, mainstreaming related policies into local development strategies in consultation with businesses and local people. In the short term, resources for implementation should be focused in big cities; especially sectors which achieve certain growth and gradually to be expanded on the national scale in further stages.

1. Background

1.1 Introduction

This paper sets out the key policy issues in attracting foreign direct investment (FDI) in Vietnam related to environmental goods and services and stresses how to promote the inflows of environmental goods and services (EGS) investment in Vietnam and help the country meet its sustainable development targets.

Work on promoting FDI on EGS forms part of the European Trade and Investment Support Project (EU-MUTRAP IV), the aim of which is to support the upgrading and completion of the policy framework. The paper provides recommendations to boost the inflows of EGS investment in Vietnam to contribute to economic development as well as environmental protection of the country.

1.2 The need of EGS development in Vietnam

There is an obvious increasing demand for a better environment in Vietnam and the associated pollution mitigation technologies. The most important factors attributed to such increasing demand are listed below.

The population in Vietnam has been increasing very fast. In 2009, Vietnam's population was 85.8 million people and it will have up to 108.7 million people by 2049 in accordance with the average scenario. This leads to huge challenges facing environmental pollution in Vietnam, especially for the population in urban areas.

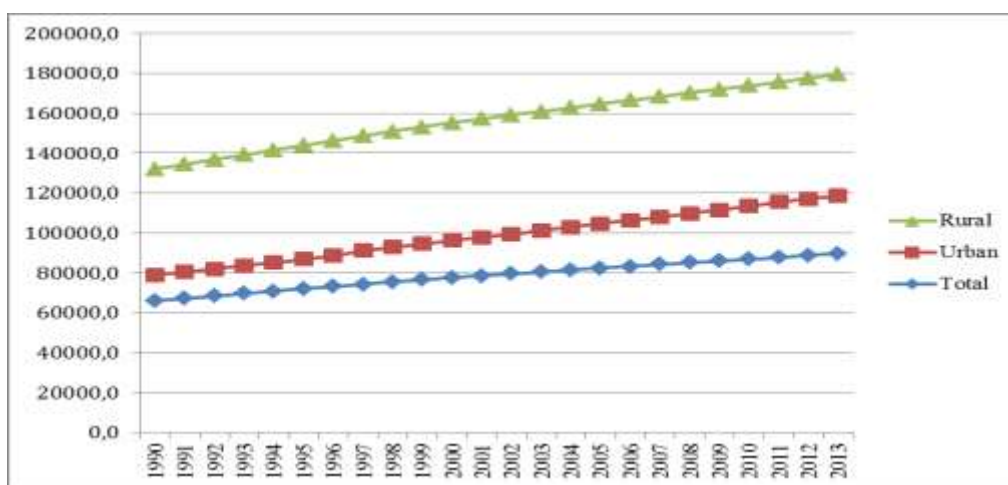


Figure 1: Pressure of population increases in Vietnam (1990 – 2013)

(Source: GSO in Vietnam)

The increase in the number of Industrial Parks in Vietnam also has a hand in the environmental pollution pressures in Vietnam. In 2015, there were 299 industrial zones established in Vietnam, with a total land area of nearly 84 thousand hectares located across the country, particularly in Red River Delta and South East regions..

The pressure from the urbanization process makes it difficult for the country to ensure environmental quality and prevent/minimize natural resources degradation, particularly within urban living conditions. According to the World Bank (WB), the process of urbanization in Vietnam is taking place rapidly, in terms of both space and population. Figure 3 indicates migration between urban and urban (TT-TT), urban-rural (TT-NT), rural –urban (NT-TT) and rural –rural (NT-NT) which shows all the movement are increasing, particularly TT-TT and NT-TT. The process of overpopulation and urban expansion in Vietnam has been leading to many problems for the government. In particular, environmental pollution is one of the biggest obstacles challenging Vietnam’s government. Rapid population growth and inappropriate population distribution have resulted in serious negative consequences for Vietnam’s environment in all aspects such as waste, air pollution, water pollution, land pollution and so on.

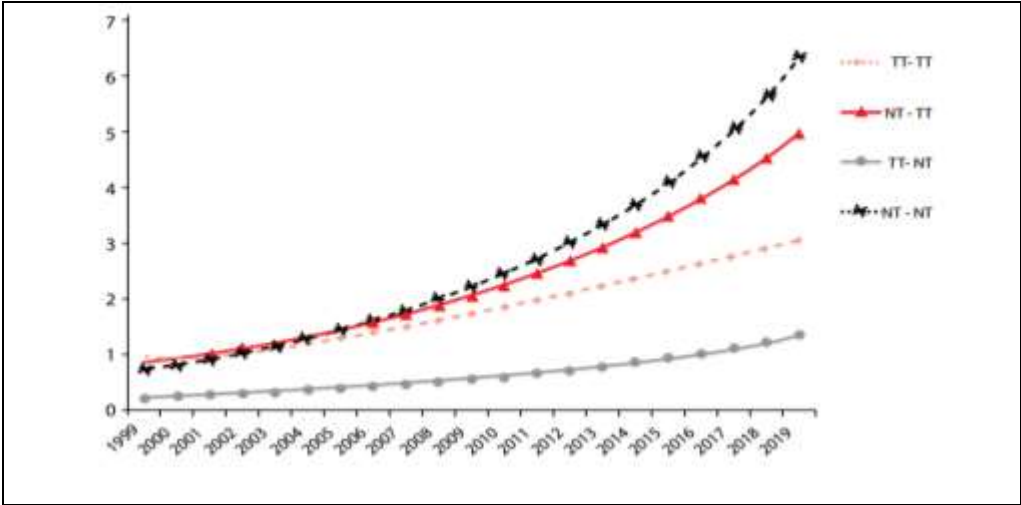


Figure 3: Migration between urban and rural areas, during period 1999 – 2009 and forecasted by 2019²

Finally, energy consumption is increasing sharply in the country. The above-mentioned study on “Investment Incentives for Renewable Energy in Southeast Asia: Case study of Vietnam” shows that such consumption doubled from 2000 to 2009. Consumption of renewable energies, however, did not increase at the same speed.

²Note: TT = Urban area; NT = rural areas

Table 1: Energy Consumption in 2000, 2005 and 2009

(in Kiloton of oil equivalent -KTOE)

Energy consumption	2000	2005	2009	Average annual growth rate (%) 2000–2009
a. Solid	4,372	8,342	12,654	12.5
b. Liquid	7,917	12,336	16,607	8.6
c. Gas	1,441	4,908	7,290	19.7
d. Hydro electricity	4,314	3,835	6,785	5.2
e. Renewable energy	14,191	14,794	17,732	0.4
Total	32,235	44,215	61,059	6.8

The figure by ISPONRE below shows that the demand for clean services is expected to over double in relation to the current levels.

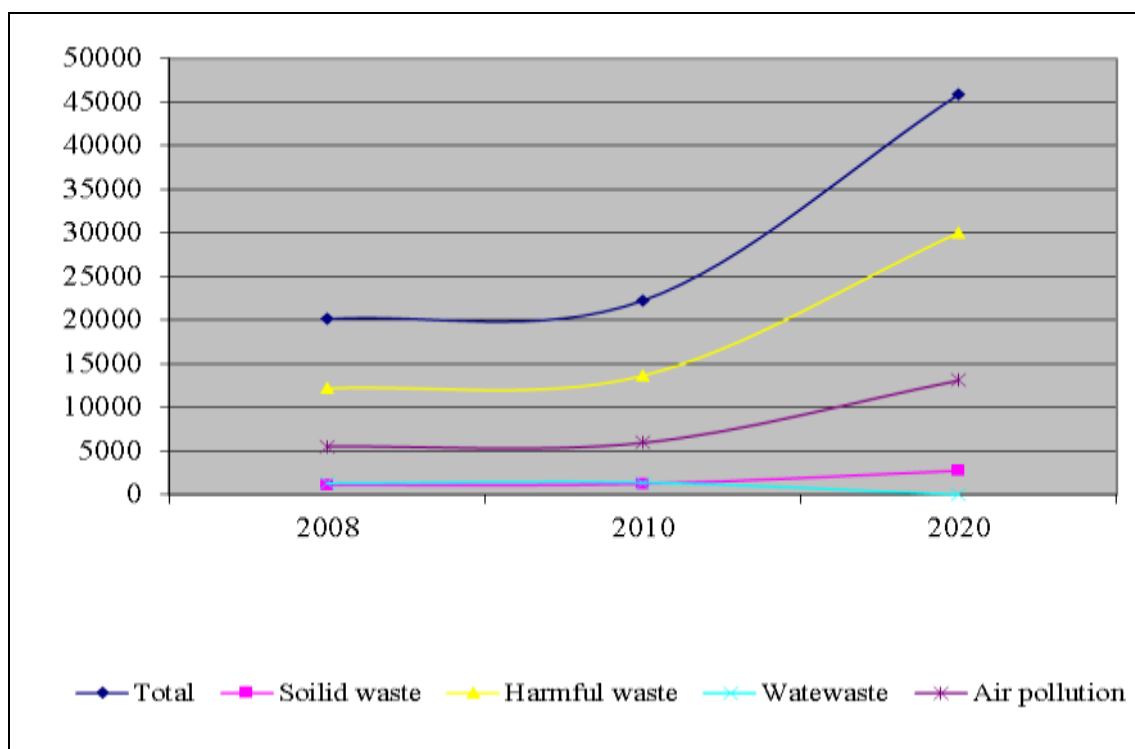


Figure 4: Demand of capital resources on EGS in Vietnam by 2020

(Source: ISPONRE, 2012)

Given the expected increasing demands above for a cleaner environment, there is an obvious market for EGS and the associated technologies. The challenge, therefore, is to attract sufficient (and more) investments in these sectors.

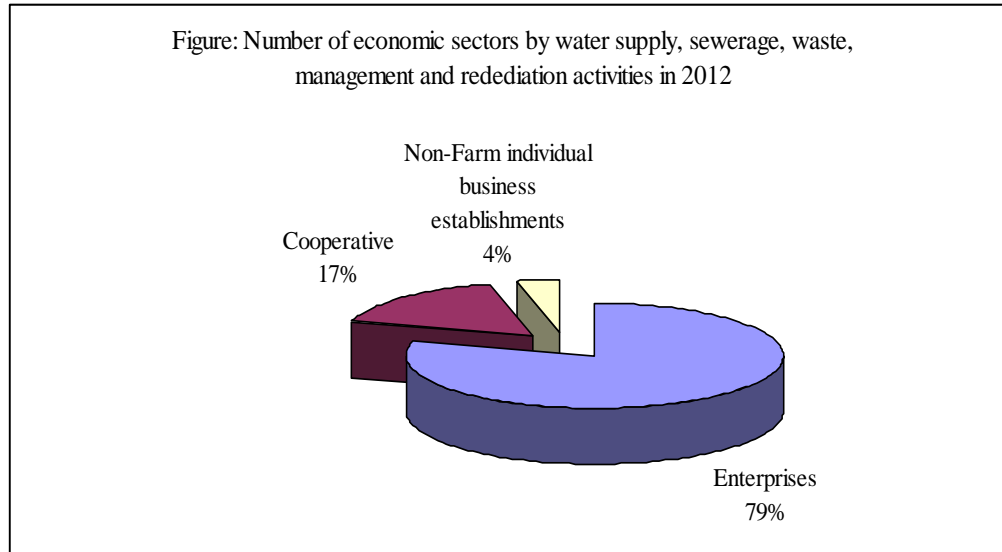


Figure 5: Number of economic sectors by water supply, sewerage, waste management and remediation activities in 2012

Sources: Extracted from GSO in Vietnam

1.3. Overview of FDI on EGS in Vietnam

Vietnam has not yet issued a list of EGS. Review results are created from two sources: (i) Decision No. 39/2010 / QD-TTg on promulgating Vietnam's system of products; (ii) Article 150 and Article 153 of the Law on Environmental Protection 2014 about environmental services and environmental industry.

Most of the enterprises operating in the field of EGS are domestic firms, of which, the number of FDI enterprises is very limited, regardless of the upward trend in recent years (Figure 7). Almost all enterprises focus on collection, treatment and disposal of waste, waste recycling and water supply (Figure 6).

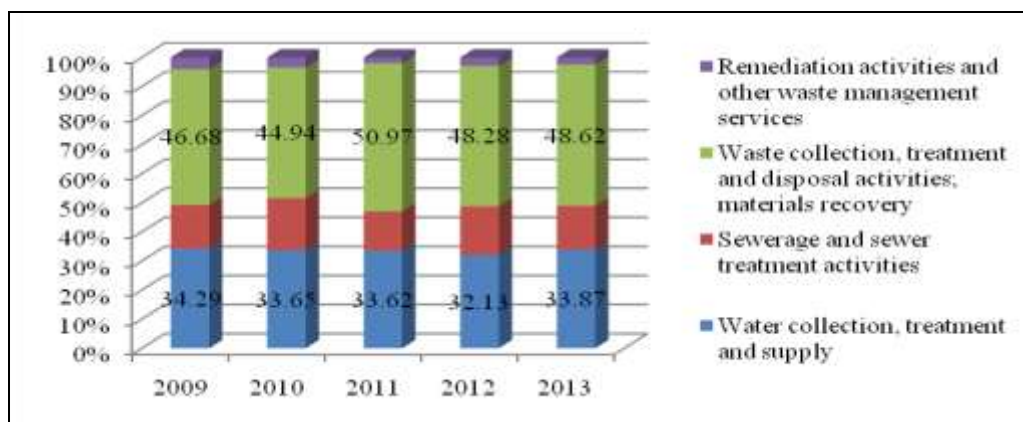


Figure 6: The structure of enterprises operating in the ES field in Vietnam by business activities (Source: GSO, 2014)

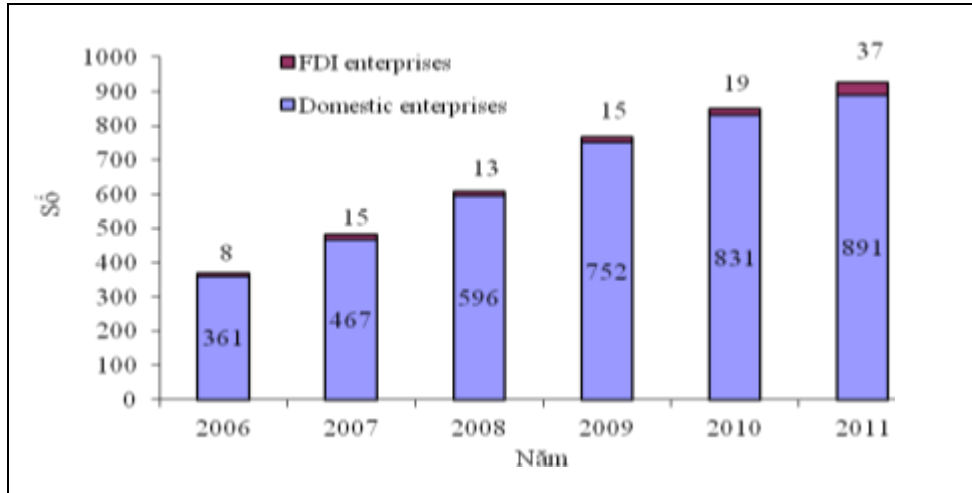


Figure 7: The operating trend in water supply, sewerage, waste, management and remediation in Vietnam of FDI and domestic enterprises (Source: GSO, 2012)

It is possible to observe that there is an increasing interest in foreign capital among enterprises that are active in the sectors of EGS. The number of projects in, for instance, waste treatment and water purification services, substantially increased from 5 in 2005 to 29 in 2012. Despite the decline in investment in 2012, the number of FDI projects in this sector reached 31 in 2013.

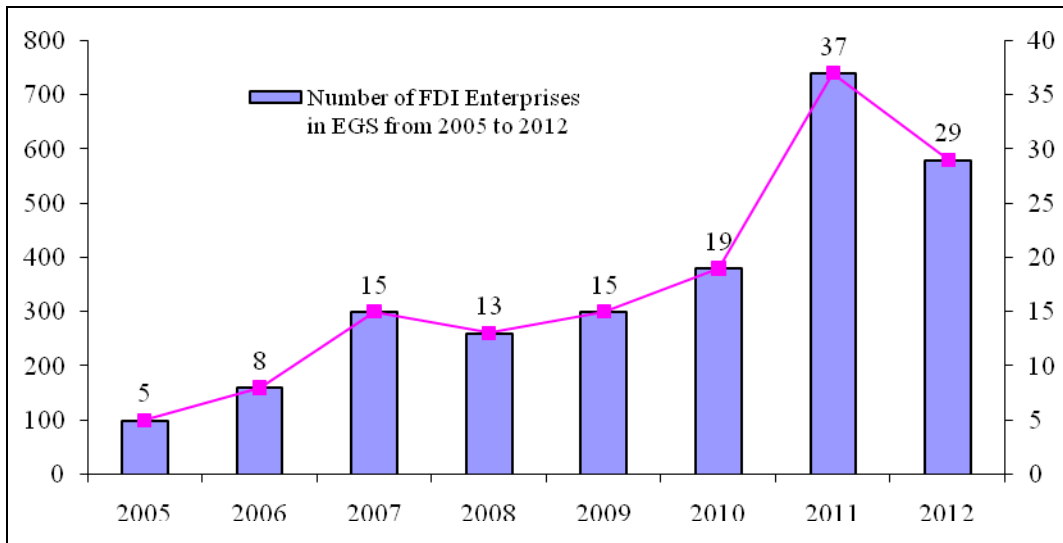


Figure 8: Trend of FDI Enterprises in waste treatment services

(Source: Extracted from the sources of GSO in Vietnam, 2014)

*** Distribution of FDI by field of EGS**

The Vietnam's Ministry of Planning and Investment indicates that most of the FDI investments in EGS are in the areas of waste treatment and water purification. These services are indeed

very important in a country which is gradually confronted with high levels of pollution due to the increase both in industrialization and domestic industrial and household consumption.

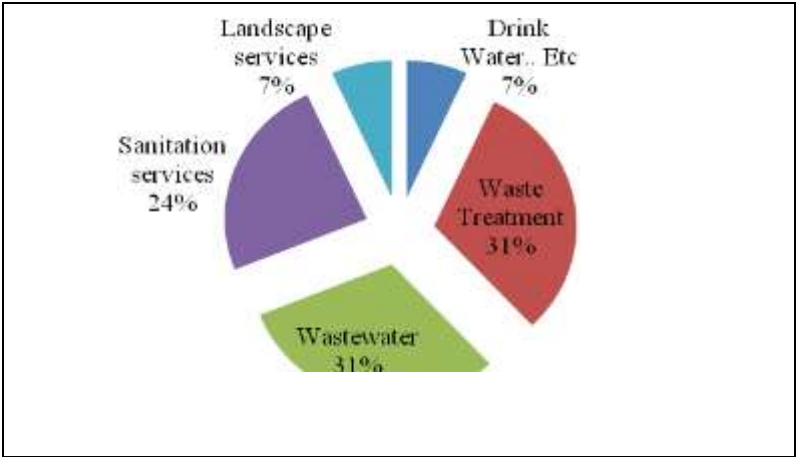


Figure 9: Distribution of FDI by the detail fields on EGS in 2012

(Source: General Statistic Office in Vietnam, 2012)

***Number and volume of FDI in EGS**

At the end of 2013, there were 31 FDI projects in waste treatment and water purification services with a total registered capital of 1.285,33 million USD and a charter capital of 315,71 million USD³. FDI in the sectors of EGS still remains relatively low in Vietnam compared with the rest of FDI. It represented less than 1% of the total FDI of the country in 2013.

Unit: Million USD

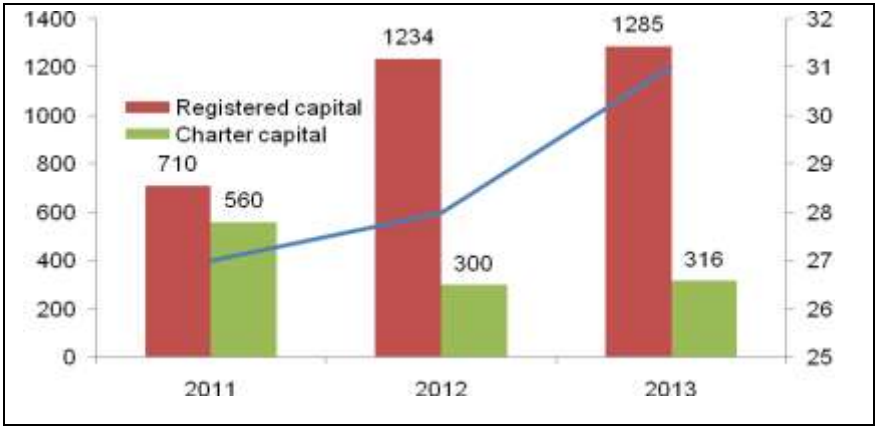


Figure 10: Number of projects and registrations on waste water treatment, waste in Vietnam from 2011 to 2013

(Source: extracted from GSO sources in Vietnam)

³Source: MPI, Department of Foreign Investment

The general trend indicated an increase in invested capital, with new investments emerging in the period 2011 – 2012 with a capital of between 50 billion VND and 200 billion VND.

Figure 9: The sharing percentage of FDI enterprises in EGS by size of capital resource

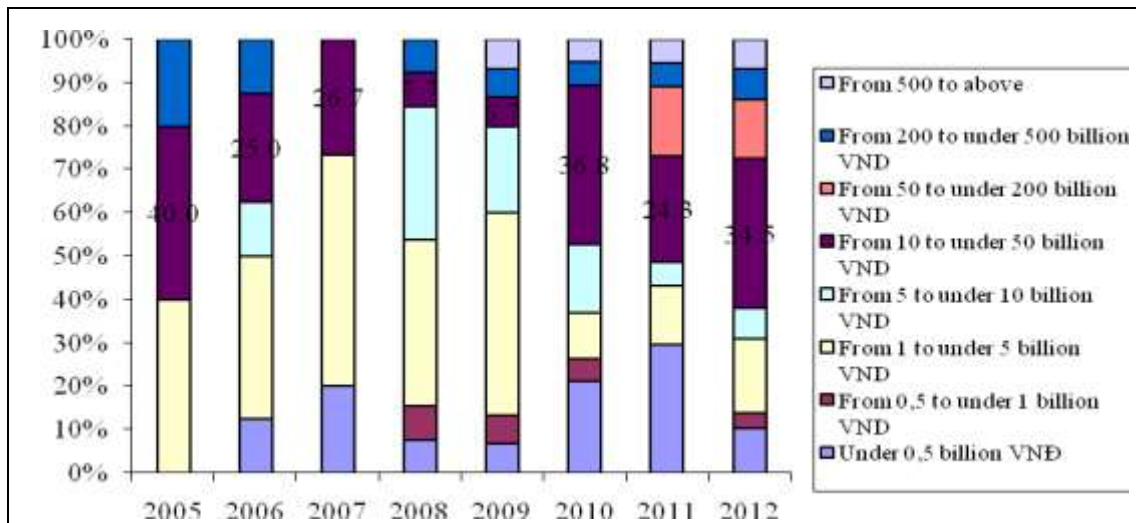


Figure 11: The sharing percentage of FDI enterprises in EGS by size of capital resource

(Source: extracted from GSO)

The gradual growth in investment in the sectors of EGS is also reflected in the number of employees recruited by new enterprises. Figure 18 below illustrates an increase in the number of enterprises recruiting more than 200 employees. Figure below exhibits a general increase in the average number of employees in companies that are active in the sectors of EGS.

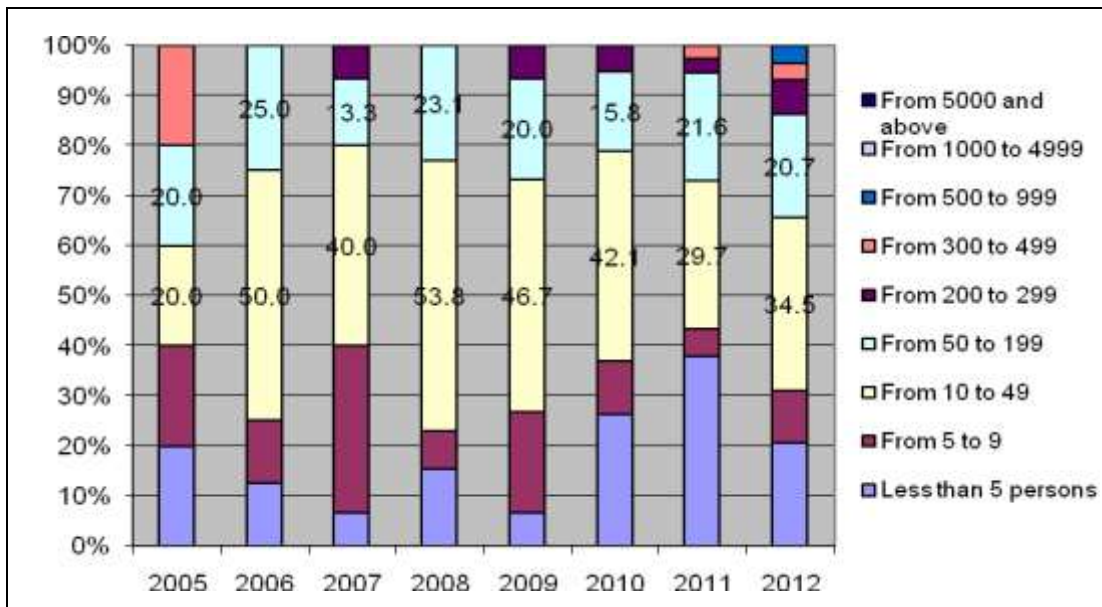


Figure 12: The sharing percentage of FDI enterprises in EGS by size of employee

(Source: extracted from GSO sources in Vietnam)

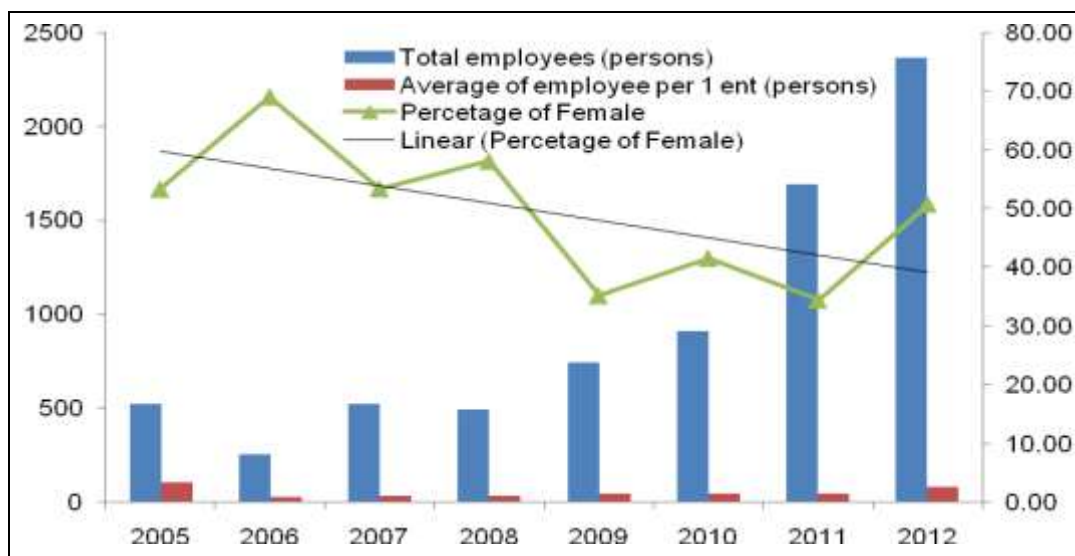


Figure 13: Total and Average number of employees, percentage of females in FDI enterprises in EGS in Vietnam

(Source: extracted from GSO sources in Vietnam)

*** Geographical distribution of FDI in the areas of EGS**

Unsurprisingly, most of the FDI in the sector of EGS in Vietnam is concentrated in Hanoi and Ho Chi Minh City, which are the most populous cities in the country. The needs for waste treatment and water purification are demanding; hence, returns on investment are expected to be higher in these urban areas.

Table 2: Distribution of FDI enterprises in EGS in Vietnam in 2012 by provinces

City/province	Number (enterprise)	Percentage (%)
Ha Noi	6	20.69
Ho Chi Minh City	15	51.72
Ba Ria - Vung Tau	2	6.90
Binh Duong	1	3.45
BinhPhuoc	1	3.45
Dong Nai	1	3.45
Dong Thap	1	3.45
Long An	1	3.45
TT Hue	1	3.45
	29	100.00

(Source: extracted from GSO sources in Vietnam)

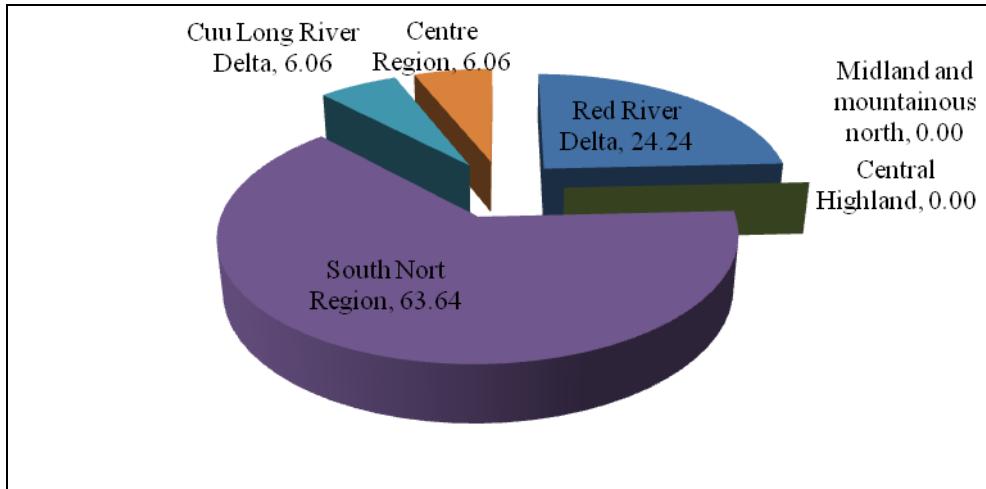


Figure 14: Distribution of FDI enterprises in EGSs in Vietnam by region in 2012

(Source: extracted from GSO sources in Vietnam)

*** The income statement of FDI enterprises in EGS in Vietnam**

The figure below reveals stable profits of FDI enterprises in the sectors of EGS, despite an economic depression in 2011. In 2012, not only profits, but also taxes received from these FDI enterprises increased substantially.

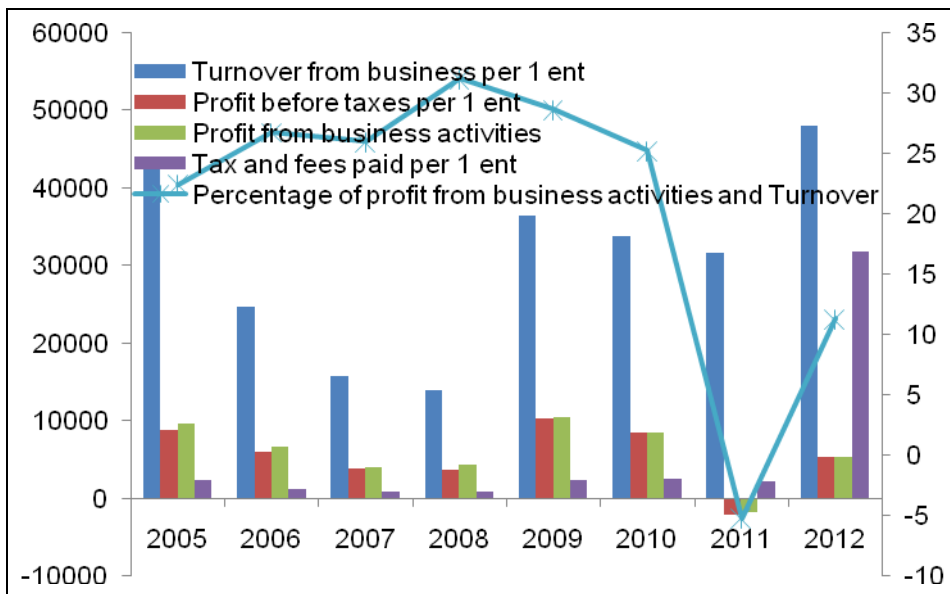


Figure 15: Average turnover from business, profit before taxes, profit from business activities, and tax and fee paid per enterprise

(Source: extracted from GSO sources in Vietnam)

1.4. Opportunities and challenges

Attracting FDI in EGSs will bring Vietnam both opportunities and challenges involved. Here are some general assessments of the opportunities and challenges that Vietnam is likely to encounter.

Opportunities

Clearly, responding to the increasing demand for EGS may foster the development of an industry which can substantially contribute to economic growth. Most of the emerging economies are able to perceive this fact. In Vietnam, the Government may as well realize the opportunities that spring from increasing investments on EGS; hence, the promotion of EGS is identified as one of the solutions mentioned in the National Green Growth Strategy adopted in September 2012. In addition, the most important driving reason for the demand of EGS in Vietnam is the environmental strains during socio-economic development, population growth and lifestyles changing. Therefore, Vietnam is considered a potential market for foreign investors.

- Creating opportunities for attracting capital to solve the environmental problems in the present context.

Vietnam has spent the source of recurrent expenditure on environmental protection. However, due to state-based funding, this source is normally low and inadequate for investment in order to achieve the objectives of environmental protection which has been improved in recent years. Therefore, attracting FDI in EGS will contribute to policy orientation of diverse investment funds for environmental protection which are determined in Vietnam's environmental protection law⁴.

- Facilitating the implementation process of green growth and restructuring economic orientation.

EGS is one of the important components of green growth strategy in Vietnam. In addition, Vietnam's green growth strategy was defined as the one which is associated with economic restructuring. Therefore, attracting FDI in the field of EGSs not only restructures FDI flow into Vietnam but also contributes to promoting the green growth and structural orientations for the economy.

- Creating opportunities for local enterprises and goods of Vietnam to penetrate into the global supply chain.

Although the market of EGS has developed, it is considered to be a potential area. To some extent, attracting FDI inflows into this sector will create cooperative opportunities between local firms and FDI enterprises to make domestically-produced products and raw materials get involved in global green supply chains.

⁴ Diversify investment funds for the environmental protection; reserve a specified amount of expenditures allocated from the government budget for the environmental protection, which equals to a gradual increase in the growth rate; perform the consistent management of funds for the environmental protection and prioritize the utilization of these funds for key industries in the environmental protection. (point 5, article 5, Law on environmental protection in Vietnam)

- Creating opportunities for improving technical or technological transformation.

Promoting the transition to high-tech and green technologies is one of the measures that was proposed in the National Strategy for Green Growth. The development of FDI in EGS will give an important impetus to the transformation of technology to move in the right policy direction of the state. .

- Providing new jobs, generating added value and new investment opportunities in Vietnam.

EGS is a new field and has many potentials to develop in Vietnam. Therefore, boosting FDI in this sector will create jobs and opportunities for attracting labor forces. Employment in the field of EGS, in addition, was considered one of the important contents of green job, which was driven development in the Vietnam National Green Growth Strategy.

The local companies will have the opportunity to expand the market, participate in global value chains of EGS. Attracting FDI in sectors EGS will stimulate competitiveness between domestic enterprises and foreign firms, improve technology and provide better products or services. EGS in Vietnam will be involved in the chain of the global value added.

- Vietnam is considered a sound economy in the ASEAN region with the stable politics.
- In order to tackle environmental problems or pressures and follow the sustainable development orientations, the government has issued many incentive policies to expand the environmental protection, including EGS sectors. When investing in Vietnam, the foreign investors also receive similar incentives to domestic enterprises in these sectors.

Challenges

The challenges resulting from policies promoting the use of investment in EGS are related to the need to find the adequate combination between the objective to adequately respond to the environmental concerns, while at the same time complying with the international trade and investment agreements of Vietnam. The latter indeed condition the nature of the domestic regulation that Vietnam can take. Such regulation should not unduly restrict the market access rights and the investment-related rights accruing to Vietnam's trade partners from these agreements.

Furthermore, it is important to ensure that the policy instruments the government intends to use do not undermine the overall competitiveness of other environment-unrelated sectors by imposing unnecessary regulatory burdens on enterprises or by increasing the energy price beyond acceptable rates.

It is also important not to create through government action undue market distortions that could impair the overall effectiveness of the markets concerned. In this regard, certain instruments, such as local content requirements, may be more distortive than others.

Challenges for Vietnam are the low competitiveness of domestic enterprises (both in terms of technology and capital sources). In particular, domestic businesses operating in the field of EGS supply in Vietnam are mostly on a small scale with limited resources available. .

2. Key policies related to EGS and FDIs in EGS in Vietnam

2.1. Vietnam's key policies for EGS

2.1.1. General

The Vietnam's Socio-economic Development Strategy for 2011-2020 (SEDS) is the Government's highest-level policy document. The SEDS highlights the links between economic development and environmental protection and it emphasizes that environmental protection should be integrated into development strategies, schemes and plans for industries. The strategy encourages larger social involvement in protecting the environment.

The National Green Growth Strategy (2012) aims to achieve a low-carbon economy - sustainable economic growth. The strategy envisages the development of new legislation and financial and economic policies that incorporate green growth principles. Furthermore, promoting EGS is mentioned as one of the solutions to address the environmental rising issues and contributes to environmental protection.

The National Strategy on Environment Protection to 2020 with visions to 2030 (2012) highlights the development of ES as one of important solutions to contribute to the strategy implementation. The ES sector, including treating and recycling wastes as well as environment treatment technologies and solutions, is regarded as a key green economic industry which can settle environment issues, generate more incomes and jobs for people".

2.1.2 EGS specific

The EGS in Viet Nam are underpinned by several laws, regulations, ordinances and directions aiming at supporting enterprises that are active in the sectors of EGS.

The EGS are mentioned in various laws such as the Law on Environmental Protection (LEP) 2014, Law on Corporate Income Tax in 2008 and the revised Law no. 32 in 2013, the Investment Law 2014, the Law on Import-Export Tax 2005 and the Land Law 2013. The laws and the relevant guidance regulations accordingly identify the ES classification, support the establishment of organizations and individuals in EGS and encourage investment in EGS by providing incentives as well as tax exemption for the activities in EGS (Box 1)

Box 1: EGS legislation

The Law on Environmental Protection 2014 identifies the environmental services including 5 groups⁵, which is an important ground to define the list of ES (the list could be formed by combining the ES classification of LEP 2014 and the Decision No. 39/2010/QĐ-TTg, promulgating the system of Vietnamese product categories – see the Annex 1). The law also

⁵ ¹²Law on Environmental Protection, Article 150

provides support to organizations and individuals to establish environmental service enterprises through bidding, public-private partnership in EGS⁶ and to provide general support from the State for listed environmental protection activities⁷.

The Investment Law 2014 provides incentives for the investment projects on collection, treatment and re-use of waste⁸. In particular, the Decree 59/2007/ND-CP provides detailed guidance to support all forms of investment in the field of solid waste under the Law. Under this Decree, the State grants exemptions from land use fee, financial support for ground clearance compensation, import levy exemption for equipment and materials of investment projects, exemption and reduction for enterprise income duty, support for technical infrastructure investment including transportation, electricity, energy, communications, water supply and drainage and construction fence and so on⁹.

The Law on Import-Export Tax 2005¹⁰ (and its guidance decree namely Decree 149/2005/ND-CP) provides tax exemption for imported goods to create fixed assets of projects entitled to investment incentives.

The Law on Corporate Income Tax 2008 and the revised Law no. 32 in 2013 (and its guidance decree namely Decree No.218/2013/ND-CP) provides tax incentive schemes for new investments.

There are two legal documents making direct impacts on the EGS, namely the Decision No. 1030/QD-TTg dated July 20th 2009 and the Decision 249/QD-TTg on February 10th 2010 (Box 2). The two decisions are significant for the EGS development.

Box 2: Legal ground for EGS development

The Decision No. 1030/QD-TTg dated July 20th 2009 on scheme of development of environmental industry until 2015 and vision toward 2025 approved by the Prime Minister mentioned that the States encourages and gives favorable conditions to all organizations and individuals to develop the anticipated environmental industry including EGS which is capable of providing technologies, equipment, services, and environmental products considering pollution control and treatment, degradation remediation, limitation of increasing levels of pollution and improvement in environmental quality. The establishment of environmental service consultancy organizations is encouraged

The Decision 249/QD-TTg on February 10th 2010 on the approval of Plan for Environmental Services Development by 2020. The Decision is an important legal ground for the

⁷ Law on Environmental Protection, Article 151

⁸ Investment Law 2014, Articles 15 and 16

⁹ Decree 59/2007/ND-CP of April 09th 2007, Articles 12 and 13

¹⁰ Import-Export Tax Law, Article 16

development of environmental services as well as the network for environmental service enterprises. The Decision identifies the tasks to carry out the development of environmental service enterprises and the environmental service market in Vietnam in the near future. It is to facilitate the establishment of state-owned enterprises on environmental services entrusted to tackle complex issues pertaining to environmental protection in Vietnam.

The EGS has been governed by various under-law regulations (see the Annex 2). Some of the most important ones below:

- Decision 166/2014/QD-TTg on the implementation plan of the national strategy to protect environment towards 2020, with a vision towards 2030 highlights the need of improvement and completion of the legal documentation for the development of environmental services, with particular emphasis on handling, waste and recycling technologies, and environmental treatment solutions.
- Decree No. 04/2009/ND-CP¹¹ and Circular No. 101/2010/TT-BTC, guiding the exemption from import duty under the government's decree No. 04/2009/ND-CP, on incentives and supports for environmental protection activities, provides incentives and supports for environmental protection activities.
- Decree 46/2014/ND-CP dated 15/5/2014 on collection of land rental and water surface rental details exemptions of land rents and water surface rents in the areas where investment is encouraged¹².
- The regulations of defining the conditions and imposing relevant standards and technical regulations on EGS such as the Decree 127/2014/ND-CP of the conditions of operation in relation to environmental monitoring services, the Decision No. 322/2012/QD-BXD of the conditions for treatment of life-cycle-based solid wastes in construction and the standards and technical regulations on EGS and user industries.
- The standards and technical regulations are regulated by relevant line ministries such as Ministry of Natural Resources and Environment (MONRE), Ministry of Construction (MOC).

On the other hand, to encourage the development of foreign-invested sector and to improve the quality and effectiveness of FDI, in the past the Government promulgated **the Resolution No. 13/NQ-CP dated 7th April 2009** on orientations and solutions for attracting and managing foreign direct investment funds. For current stage, the Government approved **the Resolution No. 103/NQ-CP dated 29th August 2013** on orientations to increase efficiency of attracting, using and managing FDIs in future. Both resolutions are purposed to call for an increase of FDIs with modern and environmentally friendly technologies.

¹¹ Decree No. 04/2009/ND-CP, Section I, II, III, IV

¹² Decree 46/2014/ND-CP, Article 19

2.2. Vietnam key policies for promoting FDIs in EGS

All investment activities including the EGS ones in Viet Nam are regulated by the Law on Enterprise, the Law on Investment (both of which were passed by the National Assembly in 2014 and became effective on 1 July, 2015) and the Law on Corporate Income Tax (CIT) in 2008 and the amended CIT Law in 2013, which entered into force in 01/1/2014. Besides these, investment and business activities are also regulated by other laws, such as the Law on Import and Export Duties, the Law on Value-Added Tax, the Land Law, the Law on High Technology, and the Law on Intellectual Property Rights.

2.2.1. Specific sectors and geographical areas for encouraged investment

The Law on Enterprises 2014 regulates the types of companies and business establishments permitted to operate in Vietnam, their governance, liability and ways of operation. The Law on Investment contains provisions on investment activities, rights and obligations of investors, registration and evaluation of investment projects, investment incentives, investment guarantees, and state management of investment. It identifies the encouraged investment sectors, the detailed list of conditional business including 267 lines as well as the prohibited investment activities. According to the Law, investors (foreign as well as domestic ones) are encouraged to invest in the following sectors:

- High-tech activities, high-tech ancillary products; research and development;
- Production of new materials, new energy, clean energy, renewable energy; productions of products with at least 30% value added; energy-saving products;
- Production of key electronic, mechanical products, agricultural machinery, cars, car parts; shipbuilding;
- Production of ancillary products serving textile and garment industry, leather and footwear industry, and the products in Point c of this Clause;
- Production of IT products, software products, digital contents;
- Cultivation, processing of agriculture products, forestry products, aquaculture products; forestation and forest protection; salt production; fishing and ancillary fishing services; production of plant varieties, animal breads, and biotechnology products;
- Collection, treatment, recycling of waste;
- Investment in development, operation, management of infrastructural works; development of public passenger transportation in urban areas;
- Preschool education, compulsory education, vocational education;
- Medical examination and treatment; production of medicines, medicine ingredients, essential medicines, medicines for prevention and treatment of sexually transmitted

diseases, vaccines, biological and herbal medicines, orient medicines; scientific research into preparation technology and/or biotechnology serving creation of new medicines;

- Investment in sport facilities for the disabled or professional athletes; protection and development of cultural heritage;
- Investment in geriatric centers, mental health centers, treatment for agent orange patients; care centers for the elderly, the disabled, orphans, street children;
- People's credit funds, microfinance institutions
- Manufacture of new materials and new energy; manufacture of products of high-technology, bio-technology;
- The use of high technology and advanced techniques; protection of ecological environment; and research, development and creation of high-technology;
- Labor-intensive industries;
- Construction and development of infrastructure facilities and important industrial projects on a large scale

The investors are also encouraged to invest in specific geographical areas as below:

- Areas in difficult socio-economic conditions; and areas in specially difficult socio-economic conditions;
- Industrial parks, export-processing zones, hi-tech zones, economic zones.

In contrast to above, the Investors are entitled to make investments in the business lines that are not banned in the Law. The prohibited activities as:

- Trade in the narcotic substances specified in Appendix I of the Law;
- Trade in the chemicals and minerals specified in Appendix I of the Law;
- Trade in specimens of wild flora and fauna specified in Appendix 1 of Convention on International Trade in Endangered Species of Wild Fauna and Flora; specimens of rare and/or endangered species of wild fauna and flora in Group I of Appendix 3 hereof;
- Prostitution;
- Human trafficking; trade in human tissues and body parts;
- Business pertaining to human cloning.

2.2.2. Encouraged investments related to EGS

The current laws of Vietnam offer several investment privileges and incentives to investors who develop projects in encouraged investment sectors and/or geographical areas. Incentives are scattered in many laws and regulations, but mainly comprise of (i) tax incentives, (ii) incentives on land use, and (iii) accounting incentives, which are discussed in more detail below.

a) Incentives related to corporate income tax (CIT)

According to the Amended Law on CIT 2013, the standard CIT rate in Vietnam become effective from 1st January 2014, as 22% (excluding of the rate of 20% for enterprises whose turnover is below 10 billion VND per year). This rate will be 20% from 1 January 2016. An incentive rate of CIT of 10% and 20% is offered for business investment in encouraged sectors and/or areas (i.e disadvantaged socio-economic areas, economic zones or hi-tech parks listed in the Annex of Decree no. 218/ND-CP dated 26/12/2013, as shown in table no 4.). When a sector is no longer encouraged, which may happen after the revision of priorities in the five-year plan, CIT will revert to the standard rate.

Table 3. Vietnam: Incentives Related to Corporate Income Tax upon the Amended Law on CIT and its guidelines (2013)¹³

	CIT rate	Duration of incentive	Duration of exemption	Duration of 50% reduction	
New projects included in the list of specially encouraged investment and/or specially encouraged areas	10%	15 years	4 years	9 years	In particular, the rate of 10% applied for some new projects related to R&D, high technology and environmental protection could be extended to 30 years ratified by the Prime Minister
New non-governmentally mobilized projects included in the list of encouraged geographical areas	10%		4 years from generating taxable revenue	9 years following exemption period	
New non-governmentally mobilized projects non-mentioned in the list of encouraged geographical areas	10%	Full project life	4 years from generating taxable revenue	5 years following exemption period	

¹³ The incentives identified in the Decree no. 218 dated 26/12/2013

	CIT rate	Duration of incentive	Duration of exemption	Duration of 50% reduction	
New projects included in the list of encouraged geographical areas an/or encouraged investment	20%	10 years	2 years	4 years	The rate is 17% from 01/1/2016

Source: Amended Law on Corporate Income Tax, 2013.

Additionally, firms located in high-tech zones and economic zones could receive even more promising incentives, as follows.

Table 4. Taxation in selected High-tech & Economic Zones in Vietnam

Area	Duration of incentive	Duration of exemption	Duration of 5% CIT	Duration of 10% CIT
Hoa Lac, Da Nang and Sai Gon Hi-tech parks; Chu Lai Open Economic Zone	15 years	4 years from generating taxable revenue	9 years following exemption period	2 years following reduction period

Source: Adapted from Hoa Lac, Da Nang, Sai Gon Hi-tech parks' websites

In particular, in order to encourage the investors to invest in high technology and supporting industries, the government has promulgated **the Law on High Technology** that came into effect as from 1 July 2009, as well as the implementation of Prime Minister's Decision 12/2011/QD-TTg. According to the Law, high-tech enterprises are given the most favorable CIT incentives, namely, a CIT rate of 10% for 15 years which can be extended to 15 additional years. In order to benefit from these incentives, enterprises must satisfy strict requirements regulated by the Ministry of Science and Technology (MOST) to be certified as high-tech enterprises.

b) Incentives related to import duties

Foreign invested enterprises (FIEs), which invest in encouraged or specially encouraged sectors and/or geographical areas, are permitted to import products without paying duties. This exemption applies only to imports of raw materials and components needed in the production

process of products on these lists. Imports used for export activities (such as raw materials needed in the production of goods for exportation) are not subject to an import tax or duty if the FIE is located within an economic zone.

Furthermore, goods imported for direct use in scientific research and development of new technology previously unavailable in Vietnam are also given an exemption of import duties.

c) Incentives related to land use

In principle, the duration of land use for an investment project cannot exceed fifty years. However, in certain cases this duration can be extended to seventy years. This concerns:

- Projects with a large amount of invested capital and a slow rate of capital recovery,
- Projects in geographical areas in difficult socio-economic conditions.

Application extension of the term of land use, in accordance with the approved land use zones, can be granted to investors who demonstrate that they comply with the law on land and still in need of using it.

Investors who invest in encouraged sectors and geographical areas are entitled to an exemption or a reduction of the land rent and land use fees in accordance with the relevant laws.

d) Accounting incentives

Special accounting incentives affecting EGS concern the depreciation of fixed assets. Investment projects in encouraged sectors and geographical areas, as well as projects with high economic efficiency, benefit from an accelerated depreciation of their fixed assets. However, the maximum rate of depreciation cannot exceed twice the rate of depreciation of fixed assets as stipulated in the relevant regulations on depreciation.

2.3 Regulations affecting investments in the sectors of EGS

Irrespective of the above-mentioned incentives, investments in the sectors of EGS are subject, like any other investment, to the general laws of Vietnam affecting investments. We only highlight below the laws pertaining to environmental protection and intellectual property rights.

2.3.1 Environmental protection

Investments projects cannot cause pollution to the environment. Therefore, they are subject to environmental impact assessments. The Ministry of Natural Resources and the Environment (MONRE) uses two different standards to measure the impact of an investment project on environment: quality standards on the surrounding environment and waste quality standards.

Quality standards on surrounding environment include (i) soil quality, (ii) surface and underground freshwater used in business activities, (iii) costal water used for aquaculture and entertainment, (iv) air quality, and (v) noise, light and radiation in residential areas.

Standards on waste include (i) waste water, (ii) industrial gas emissions from equipment used in waste disposal and incineration, (iii) gas emission from transport, machinery and special equipment, (iv) hazardous waste, and (v) noise and vibrations caused by industrial activities.

According to Decree No.80/2014/ND-CP implementing the Law on Environmental Protection 2014, depending on the nature and scale of the project concerned, a foreign investor has to submit an Environmental Impact Assessment Report (EIAR) and an Environmental Protection Undertaking (EPU), before an investment project begins.

In principle, for EGS, these documents should not pose a problem or constitute any barriers to investment. They may instead build an interesting market composed of the user industries which would need to purchase EGS in order to conform to the relevant environmental standards.

2.3.2 Protection of intellectual property rights

Investors in EGS, like any other investor, are protected by and must respect intellectual property rights. The Law on Intellectual Property, among other rights, protects industrial property including inventions, industrial designs, business secrets, trademarks, and trade names. Investors in EGS bringing new technologies would stand to benefit from such protection under the conditions established by the law.

3. International framework affecting EGS and FDIs in EGS in Vietnam

Overall, treaties, agreements, or commitments at the international, regional, or bilateral levels form an international framework at a certain level affecting policies relating to EGS and FDIs in EGS in Vietnam. The level of binding of these agreements or commitments is not the same, to be more precise, the WTO and ASEAN commitments are bound with the Member States, while institutions like APEC primarily indicatives symbolic meaning and emphasizes on exclusive decision of each country. The TPP which Vietnam recently signed, will make a profound impact on the field of the environment in general and on EGS sector in particular. In actual fact, if delving into these agreements, very few of them directly address the EGS; however, all policies related to investment, environmental protection, trade in goods and services, market liberalization, and other regulations have a considerable influence on the promotion and development of EGS in Vietnam.

3.1 WTO

The WTO agreements first and foremost condition the adoption of domestic measures promoting EGS. Most of the other agreements that Vietnam has signed are built under the WTO existing obligations or make a reference to WTO rules.

Environmental goods are subject to Vietnam's tariff commitments under the WTO and general obligations under the GATT. A large number of relevant WTO agreements are the ASCM, the TRIMs, the TBT and so on. WTO rules generally recognise the need for environmental protection and may allow trade restrictive environmental measures under specific conditions. In

the areas of standards and technical regulations, pursuant to the TBT Agreement, WTO Members may adopt them to pursue environmental objectives provided they are not useless or unduly burdensome. As to investment measures, while the WTO rules pertaining to trade in goods do not directly regulate the conditions of FDIs, they do prevent such rules from trade distortion. The WTO TRIMs agreement specifies the type of prohibited trade distortive investment measures at length. With respect to subsidies, the WTO SCM Agreement proposes the actions that can be taken against trade distortive subsidies.

Regarding services, the WTO rules affecting environmental services are those contained in the GATS. GATS provide four modes of service supply: Cross-border supply (Mode 1); Consumption abroad (Mode 2); Commercial presence (Mode 3); and Presence of natural persons (Mode 4). In service sectors, such as environmental services, trade liberalisation obligations are applied only to those services sectors which are subject to specific commitments taken by each Member separately, per mode of supply. Commitments may be limited with specific conditions indicated in a Member's schedule of services commitments. Vietnam has made liberalization commitments on key environmental services, such as sewage services, refuse disposal services, cleaning services of exhaust gases, noise abatement, and EIA services. As a consequence, Vietnam is not allowed to implement national policies that would impair the signed commitments unless justified by general GATS exceptions. Vietnam may of course adopt more liberal rules than those subject to commitments or extend them to other environmental service sectors.

Relating to government procurement, WTO GPA consists of rules that provide a framework for openness, non-discrimination, and transparency. However, Vietnam is not a party to the GPA. Hence, it is not bound by its obligations.

The WTO commitments, overall, do not provide all solutions and some of its provisions may be counter-productive. Negotiations on environmental goods are still ongoing under the WTO. The WTO does not give, as yet, optimal guidance on the carry-out of trade remedies, subsidies, local content requirements, border tax adjustment, and safeguards. The utilization of these instruments, if ill-conceived, may lead to undesired outcomes.

3.2 APEC

APEC is based on "voluntarism" which makes an important difference as compared to the WTO and ASEAN. It is under APEC that most progress has been achieved in relation to the promotion of EGS.

In 2009 the APEC Work Programme on EGS was endorsed. It aims at facilitating an agreement on the actions to support sustainable growth in the region, increase utilization and dissemination of EGS, reduce barriers to trade and investment in EGS and enhance capabilities of countries to advance their EGS sector. This elaborated action agenda promotes EGS, reducing tariffs on environmental goods, lifting non-tariff barriers to trade in environmental goods and finally shaping a definition and a concrete list of 54 environmental goods concerned.

Under the APEC's EVSL, Vietnam also scheduled liberalization commitments for environmental services beyond the commitments it made under the GATS and ASEAN with its Individual Action Plan (IAP). Vietnam's commitment in its IAP confirms Vietnam's willingness to pursue its Environmental Services Development Programme up to 2020 with a vision toward 2030. They are consistent with its domestic policy goals and seem to go beyond Vietnam's binding commitments under GATS and ASEAN.

The APEC, however, relies on voluntary and non-binding commitments which, if not complied with, do not entail any immediate adverse consequence. The commitments made under the APEC, despite their non-binding characteristic, hold a significant political and moral weight. A country that has signed the APEC rules, in case of violating law would jeopardize its credibility itself before the International Community.

3.3 ASEAN

While ASEAN commitments do not specifically address EGS, they are entirely relevant. ASEAN environmental cooperation concentrates on ten priority areas of regional importance as stated in the ASCC Blueprint for 2009-2015. Given this overall policy framework, the ASEAN overall encourages its members to adopt policies that promote the use of EGS.

The AFTA and several Agreements between ASEAN and third countries liberalize trade in goods between ASEAN Members or between ASEAN Members and the third countries concerned, thus enhancing the liberalization of trade in environmental goods. ASEAN rules, however, by contrast with those of the WTO, do not address subsidies, such as tax breaks and investment incentives. Hence ASEAN does not restrict governments' capacity to extensively use such tools.

As to environmental services, Vietnam scheduled liberalization commitments in various ASEAN Agreements generally mirroring those made under the GATS: "sewage services", "refuse disposal services", "other services: cleansing services, noise abatement services and environmental impact assessment services." Vietnam also made commitments on additional environmental service sectors, such as "sanitation and similar services", and "nature and landscape protection services".

The ASEAN Agreement on the Conservation of Nature and Natural Resources (ACNNR) calls the Contracting Parties to adopt the necessary measures in their jurisdiction to maintain essential ecological processes and life-support systems, to preserve genetic diversity, and to ensure the sustainable utilization of harvested natural resources. The ACNNR clearly provides a relevant context in ASEAN, encouraging the Contracting Parties, Vietnam included, to develop trade and fiscal instruments to promote the use in their jurisdictions of EGS.

In the context of ASEAN, there is an ACIA which protects foreign investors and intends to establish free and open investment by 2015. Although the ACIA does not mention investment in EGS as such, it is still relevant to these sectors as long as they enter into the scope of the enumerated sectors. Such international context is inevitably conducive to the adoption of domestic policies which open the door for investors interested in EGS. Overall, because it

creates a highly favourable environment for investment among ASEAN countries, the ACIA is a relevant instrument to enhance and facilitate the promotion of investment in EGS in Vietnam.

Finally, the ASEAN Economic Community (AEC) is a major step toward greater cooperation and integration among member countries. AEC will be a single market and production base, allowing the free flow of goods, services, investments, and skilled labor. The AEC Blueprint 2025, adopted in November, 2015 provides broad directions through strategic measures for the AEC from 2016 to 2025. AEC is expected to boost trade in the region, which may affect greatly the market of EGS.

Overall, the ASEAN reaches a more comprehensive agreement than the WTO with respect to the liberalization effort, the protection of investments, and the specific attention that is given to the protection of the environment and the conservation of nature and natural resources. It may suffer from some of the same shortcomings as those of the WTO with respect to non-tariff barriers to trade and the possible abuse of subsidies and public procurement. These shortcomings may stir up unnecessary and ineffective distortions to the trade and investments in the sectors of EGS. It will remain a challenge for ASEAN to overcome, in addition to its existing provisions, a coherent set of rules for EGS.

3.4 EVFTA

Free trade agreement between the EU and Vietnam (EVFTA) has recently been concluded after the negotiation process in 2015 and the two partners are working swiftly to ratify the agreement so that it is likely to take effect officially from the beginning of 2018. EVFTA is a comprehensive agreement, which ensures interests of both Vietnam and the EU. The Agreement covers the fields of customs and trade facilitation, services and investment, government procurement, intellectual property rights, including geographical indications, state enterprises, trade and sustainable development, cooperation and capacity building. The Agreement also includes a new approach, which is more progressive on investment protection and investment dispute settlement.

Particularly, this FTA includes a comprehensive chapter on commitments on Trade and Sustainable Development, covering the issues of labor and environment in trade relations between the EU and Vietnam. This chapter also includes the commitments to support the conservation and sustainable management of natural resources (specifically wildlife, forest, and seafood). The sectors like social responsibility of enterprises and cooperative mechanism for fair trade are also paid special attention in this chapter. Vietnam has committed to improve substantially market access for environmental service providers from EU, going beyond its WTO commitments and giving EU companies best possible access to the Vietnamese market.

In the area of government procurement, the EU and Vietnam have agreed in principle to conform fully to the provisions of the Government Procurement Agreement (GPA) of the WTO, achieving the level of transparency equivalent to FTAs of EU with other partners.

Overall, EVFTA is expected to create many opportunities in promoting trade between the two parties and facilitating more FDIs from the EU into Vietnam.

3.5 TPP

The TPP which Vietnam recently signed will make a profound impact on the field of the environment in general and on EGS sector in particular. TPP is the first FTA that makes environmental content into a separate chapter of commitment. The content of these commitments is to aim at promoting mutual support between trade and environment policies; supporting countries with appropriate measures to further promote the environmental protection activities, curbing depletion of natural resources, while promoting further trade liberalization for goods and services contributing to a green economy and low carbon economy shift.

As common statements, however, the content of the commitments on EGS is not revolutionary. They still remain as general statements on the tax reduction and limitation of non-tariff barriers to facilitate trade and investment in EGS. The commitments have no stricter regulations on tax reduction, as well as pointing out the concrete list of EGS for the implementation. Yet, it has been seen as the most successful output so far with regard to trade liberalization for EGS. Liberalization of trade in EGS will contribute to Vietnam's efforts in reducing pollution at lower costs, increasing business opportunities for enterprises and creating more jobs.

3.6 Bilateral agreements

The bilateral trade agreements between Vietnam and its preferential trade partners contain provisions which are relevant to the promotion of the EGS in Vietnam. Vietnam has signed over 100 bilateral agreements including 20 FTAs and over 40 bilateral investment treaties. All of them condition and shape investment and trade environment in Vietnam but none of them deeply expresses the EGS and very few make a reference to environment protection.

The most relevant among the bilateral agreements is the one signed between the US and Vietnam since it aims at achieving extensive liberalization of trade in goods and services and it creates a favorable environment for investment between two countries. The Agreement contains extensive obligations regarding trade in goods and services, the protection of intellectual property rights, investment, business facilitation, transparency and the right of appeal. However, Vietnam did not schedule any commitments directly related to environmental services.

4. General Assessment

The market of environmental goods and services in Vietnam has not yet formed explicitly. The number of FDI enterprises in the field is still limited, despite the fact that they have already generated substantial profits for the investors and interesting tax return for the Government. The reasons are the limitation of the framework and its practical implementation. Therefore, there is an urgent need to complete and adjust the policy framework to effectively attract more FDIs in the sector of EGS. This involves developing specific regulations that will create incentives for investments in EGS.

The policy framework including several laws, regulations, ordinances and directions aimed at supporting enterprises that are active in the sectors of EGS has been formulated. The framework

is an essential ground for the development of EGS in Vietnam. It offers substantial incentives to enterprises investing in the sectors of EGS. It also provides detailed technical regulations and standards in the sectors of construction and industrial activities. The implementation of the framework has contributed to making positive changes in the field.

The EGS classification has been reflected in the national statistics system of product industries classification of Vietnam. However, the products and services related to the field are scattered in the several sub-sectors. This will be difficult to monitor and report all sector as well as its role in economic development and environmental protection.

Furthermore, one notable point under the Law of Enterprise 2014 that there is no distinction between domestic investment and foreign investment as before. Both the foreign and the domestic are encouraged to invest in the encouraged sectors identified in the Law. The regulation will create a fair competition between the domestic and foreign. It could not reduce the effectiveness of attracting FDI on EGS once the investors realize its potential benefits and profits.

International trade agreements which Vietnam has signed or concluded negotiation have a substantial influence on EGS and the attraction of FDIs in EGS in Vietnam. These agreements are quite diverse in geographical scopes, levels of binding, or the relevance of specific provisions related to EGS. Generally, the WTO, APEC, TPP, EVFTA, ASEAN agreements, as well as various bilateral agreements have highlighted the issue of market access, liberalization of trade and creating conditions for investment flows into Vietnam market in many sectors, including EGS. Taking advantage of the opportunities from these agreements will promote the EGS market development in Vietnam. On the other hand, the underlying risks are also huge and Vietnam should have proper preparations or adaptations as joining in these institutions.

5. Recommendations to increase FDI inflows for EGS in Vietnam

5.1. Improving the Vietnam legal and policy framework

Based on the analysis on the current state of the investment climate as well as market realities in EGS, to boost foreign investment in the EGS, some suggestions are made for improving the legal and policy framework in Vietnam, in which prioritized issues should involve business environment, trade liberalization, public procurement, incentives and subsidies. Although specific characteristics of each particular sector of EGS should be taken into consideration, these general recommendations have a fundamental significance for improving the business environment, empowering an attractive EGS market for more foreign enterprises and investors to enter this field in Vietnam.

5.1.1 EGS list

It would be useful to develop an official list of EGS which would clearly benefit from the incentives the Government of Vietnam wishes to provide. Such a list would provide credibility and certainty for potential investors. Currently, the list of environment services (ES list) could be identified by consolidating the Decision No. 39/2010/QD-TTg, promulgating the system of

Vietnamese product categories and Article 150 of the Law on Environmental Protection (LEP) 2014 on classification of environmental services. However, the list of environment goods has not been formed, for its definition has not been clarified yet. It leads to the difficulties in monitoring and accessing the FDI state for the field. Therefore, it is high time to formulate the list.

During drawing the list of EGS, Vietnam should also consider the existing APEC list which is relatively detailed and complete. Basing on the list, the FDI companies may choose the potential areas to invest i.e manufacturing and/or services related to water or air pollution, waste management, recycling, renewable energy, monitoring and so on. The provision of EGS generally accounts for 2-3% of GDP developed economies. The development of an EGS industry in transition economies is instrumental in eliminating preventable diseases, enhancing quality of life, protecting natural resources and attracting in-bound investment. Many sustainable development goals are also facilitated by a healthy EGS industry. APEC list of environmental goods includes 4 main categories: (1) Renewable energy , (2) Environmental Monitoring, Analysis and Assessment Equipment, (3) Environmental-protection (principally SHW, WWM and APC)¹⁴, (4) Environmentally Preferable Products.

5.1.2 Business environment

In order to foster investments in EGS, as for all investments, providing a good business environment is a leading determinant. While market opportunities in EGS are obvious, the need to improve certain elements of Vietnam's business environment affecting EGS is essential. Those include:

- Provision of a clear legal framework guiding policies on EGS and renewable energy projects;
- Establishment of a single point of contact for enterprises, e.g. Foreign Investment Agency under MPI;
- Adoption of simplified and harmonized administrative procedures;
- Establishment of a 'one-stop-shop' governmental services accompanying investments ventures and their registration, business licenses and authorizations;
- Provision of channels of communication between the government and the companies with all official information emanating from the Government;
- Publication of an easy access to all relevant legislation and standards;
- Provision of training on the application of new environmental regulations;
- Adoption of unified procedures related to authorization and environmental regulations throughout the country;

¹⁴ Solid and hazardous waste (SHW), waste-water management (WWM) and air pollution control (APC)

- Application of the same control systems to FDI and local companies;
- Drafting of laws and regulations in a way that is easy to understand and implement;
- Consultation of companies when the Government plans to develop and introduce new legislation;
- Adoption of a transparent bidding law on construction of environmental protection projects;
- Raising more public awareness of EGS;
- Ensuring the application of the law and strengthen enforcement mechanisms of laws and contracts;
- Protection of the most vulnerable populations in case of granting land concessions for the production of EGS.
- Adjust the price tariff related to the investment rates, the cost of treatment and lost in treatment of waste accordingly to location and type of technology.

Trade Liberalisation

A recommendation for Vietnam would be to consider implementing the tariff reductions on environmental goods proposed under APEC. Accordingly, the Government of Vietnam should decide whether existing tariff lines may be used or there is a need for new ones. The new tariff lines would serve to apply reduced tariffs to “environmental goods” (“ex-outs”), not to inadequate “non- environmental” products under the existing tariff lines. This, however, may be a rough exercise which requires specialised expertise.

Vietnam may wish to consider offering more opportunities accessible to liberal market for foreign services and service suppliers than those covered in its WTO or ASEAN commitments. The country may also wish to extend the benefits of its commitments to other environmental services sectors. Such measures would better ensure the availability of the services concerned and foster dynamic and competitive markets in these sectors.

Incentives and subsidies

- A clear recommendation for Vietnam would be to provide well targeted financial incentives according to clearly identified objectives.
- Promote public-private-partnership in environmental services. Private and public sector should cooperate in a process tracing the market failures that would warrant a subsidy.
- When programming an incentive scheme, the recommendations concerning transparency, clarity, sharing of risks with private sector, adequate public administration, neutrality and external evaluation of the subsidy deserve careful attention.
- In order to avoid action ability of a subsidy and for effectiveness, it is preferable to provide subsidies that focus more on activities than sectors.

- It is important to establish a mechanism for the systematic assessment of the impact of an incentive on the competition in the market and to identify the economic operators that may be negatively affected by the subsidy and who are likely to complain.
- Export subsidies or subsidies contingent upon the use of domestic input as opposed to imported goods are prohibited. A subsidy therefore cannot be connected to a LCR or to a FIT if the latter operates in practice as a local content scheme (this could be the case in the wind and solar sectors).
- Subsidies should be granted only if they are necessary to make incentive effects and only until the obstacles justifying them exists. As a general rule, subsidies should only be temporary and subject to a sunset clause. The costs and distortions of the subsidies should be kept to a minimum.
- Should private investment be missing, the Government could consider investing itself, directly or through joint investments with private operators in clean energy projects.

Public procurement

- Vietnam should consider fostering green public procurement as a proven method to make use of investments in EGS. Furthermore, the international legal system does not prevent Vietnam from this action.
- Vietnam should ensure that its public procurement regulations enable the use of a criterion of “best value for money,” as opposed to “lowest price.” Such criterion enables to integrate the benefits to the environment into the value of the contract.
- Procuring entities in Vietnam should define bidding requirements related to EGS with precision.
- It would be important to share information among procuring entities throughout the country and sensitize them to environmental objectives.
- The Government of Vietnam should convey its policy and needs regarding green procurement to the private sector and experts of the area.
- It would be important, in the selection of bidders, to find the right balance between the need of using proven technology and experienced bidders and the need of encouraging innovation.

Others

- Vietnam should exercise with caution before imposing antidumping duties on imports of environmental goods, even if its domestic industry may complain about them. However, at the moment, this does not seem to be an issue in Vietnam.
- Nevertheless, should Vietnam receive an antidumping complaint from its domestic industry of EGS (such as producers of clean fuels or of the tools for the production of clean energy), it must keep the right balance between increasing the use of affordable EGS and protecting investments in the production of such EGS in its territory. This

depends on many factors, such as the availability and quality of the local products in Vietnam, local production capacity and capacity utilisation of the products concerned.

- Vietnam should review and assess the impact of all its standards and technical regulations that are relevant to EGS, so as to ensure that they bring the obvious benefits of well-conceived standards, while against undermining innovation, access to technology and the competitiveness of the authorized products.
- Vietnam should ensure that the adequate level of intellectual property protection is offered for innovations in the field of EGS, in accordance with the WTO TRIPs Agreement. Vietnam could also consider elaborating a ‘fast-track’ process for patenting clean energy technologies.

5.2. Roles and responsibilities of GOV relevant agencies

For the development of EGS and promotion of FDIs in EGS in Vietnam, strong joint-efforts and coordination among a number of GOV agencies are essential, at the same time the notable roles and responsibilities of MOIT, MONRE, and MPI, in particular, should be stressed. The main responsibility of three ministries is working together to improve the business environment, facilitating the development of EGS and EGS in FDI in Vietnam. It is worth emphasizing the key role of MOIT in implementing policies and measures to develop market for EGS; MONRE’s part in technical aspects, establishment of the ES list, development of the legal framework for environmental services; and solutions to promote investment, encourage foreign enterprises and investors in the field of EGS of MPI. Besides, MOF will take measures related to financial support, and implement policy of incentives and financial subsidies for FDI. Local authorities are responsible for improving, attracting FDI for EGS within their area of mandate, on the ground of close cooperation with ministries at the central level.

MOIT

MOIT shall assume the prime responsibility and coordinate with line ministries, sectors and provincial/municipal People’s Committees in implementing policies, mechanisms, solutions to the development of market for EGS.

MOIT act as the focal point for issues related to identifying the list and managing of environmental goods.

MONRE

MONRE shall assume the prime responsibility and coordinate with line ministries, sectors and provincial/municipal People’s Committees in implementing policies, mechanisms, solutions to the development of EGS, such as environmental monitoring, EIAs, waste management, data complication among others.

MONRE act in matters relating to defined categories, and management of environmental services.

MPI

MPI shall assume the prime responsibility and coordinate with MOIT and other ministries, provincial/municipal People's Committees, in supporting the attraction of foreign investment and guiding investment procedures for EGS.

MOF

MOF shall assume the prime responsibility and coordinate with MOIT, MPI, MONRE, other ministries, sectors, and provincial/municipal People's Committees in developing financial policies, programmes for promoting EGS.

MOST

MOST shall assume the prime responsibility and coordinate with line ministries, sectors and provincial/municipal People's Committees in implementing policies, mechanisms, solutions to the development of EGS regarding research, application, transfer of environmentally friendly technologies and related issues.

Provincial/Municipal People's Committees

Provincial/Municipal People's Committees shall coordinate with ministries, sectors in implementing solutions to the attraction of foreign investment and promotion of FDIs for EGS within their mandates; mainstreaming FDIs into EGS promotion in their development strategies/plans.

Civil society, NGOs, businesses

Civil society, NGOs, businesses should actively participate in giving consultation and comments to government agencies on the process of developing and implementing policies related to EGS and be actively engaged in the process of development of EGS to make it become attractive.

In the coming period, namely 2016 - 2020, priorities should focus on the development of important and common kinds of EGS identified conforming to the strategy of social-economic development, the strategy of Green Growth and the strategy of Environmental Protection. The EGS types with favorable conditions to promote and attract FDI in Vietnam and are allocated in the big cities and provinces, could be the best practices to extend EGS market in Vietnam. In the next phase, after 2020, the remaining types of EGS will be invested in the whole country, striving to turn EGS into a substantial industry paving the way for the sustainable development of the country.

Annex 1: The ES classification¹⁵

CODE4	CODE2	Man	Environmental services
E3600	E36	36000	Exploitation, purification, supply water
E3700	E37	0	Waste water treatment
E3700	E37	0	Water drain and Waste water treatment
		37001	Water drain
		37002	Waste water treatment
E3800	E38	0	Waste Collection, treatment, recycle
E3810		0	Waste collection
E3811		38110	Collection and treatment of unarmful waste
E3812		0	Harmful waste collection and treatment
		38121	Health waste collection
		38129	Other harmful waste collection
E3820		0	Waste Treatment waste disposal
E3821		38210	Waste treatment and unarmful waste disposal
E3822		0	Waste treatment and harmful waste disposal
		38221	Treatment and disposal for health waste
		38229	Treatment and disposal for other harmful waste
E3830		0	Recycle waste material
		38301	Recycle metallic waste
		38302	Recycle nonmetallic waste
E3900	E39	39000	Pollution treatment and management of other waste
F4322		0	Provide the system of water (inflow and outflow), air conditional, ...
		43221	System of water (inflow and outflow)
N8120		0	Sanitation services
N8121		81210	Sanitation of general building
N8129		81290	Sanitation of other
N8130		81300	Landscape services

¹⁵ The list of ES could be established from two sources: (i) the Decision No. 39/2010/QĐ-TTg, promulgating the system of Vietnamese product categories and; (ii) the LEP 2014 (the Article 150 on classification of environmental services).

Annex 2: Legislation related to FDIs on EGS in Vietnam

No.	ES area	Contents of Provisions	Document Abbr.	In effect	Notes
	ES classification	<p>Regulations on Development of environmental services: The State encourages organizations and individuals to establish environmental service enterprises through bidding, public-private partnership in the following areas:</p> <ul style="list-style-type: none"> -Collection, transfer, recycling and treatment of wastes; -Environment monitoring and analysis, environmental impact assessment -Development and transfer of environment-friendly technologies, environment technologies; -Environment-related consultancy and training, provision of environment information; - Environmental inspection of machinery, equipment, technologies; inspection of environmental damage; -Other environmental protection services. 	<p>Environmental Protection Law (LEP) no. 55/2014/QH13 Article 150</p>	23/6/2014	

	<p>List of environmental sectors supported by the Government</p>	<p>Preferential and support policies for environmental protection activities</p> <p>The State shall provide supports for the following environmental protection activities:</p> <ul style="list-style-type: none"> a/ Building concentrated daily-life waste water systems; b/ Building facilities for recycling and treatment of ordinary solid wastes, hazardous wastes and waste burial sites; c/ Building environment monitoring stations; d/ Relocating seriously polluting e/ Building environment engineering industrial establishments and environmental protection works for public environmental protection interests. 	<p>Environmental Protection Law (LEP) no. 55/2014/QH13</p> <p>Article 151</p>		
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	<p>Direction, view of environmental industry development (includes ES)</p>	<p>The States encourages and gives favorable conditions to all organizations and individuals to develop the anticipated environmental industry which is capable of providing technologies, equipment, services, and environmental products considering pollution control and treatment, degradation remediation, limitation of increasing levels of pollution and improvement in environmental quality. The establishment of environmental service consultancy organizations are encouraged in service of the sustainable progress of the environmental industry and the boost of environmental service activities</p> <p>-By 2025: Environmental industry is anticipated to become a significant economic sector with substantial contribution to the progress of Vietnam’s industry, then to develop environmental industry enterprises, the organizations which are expert at research, transfer and hi-tech application eligible for efficiently-environmental protection and the sustainable use of natural resources.</p>	<p>The Decision 1030/QD-TTg of July 20th 2009 approved by the Prime Minister on “Proposal for the Development of Vietnam Environmental Industry up to the year of 2015, vision to 2025”.</p>	<p>20/7/2009</p>	<p>In accordance with the Plan for Vietnam Environmental Industry Development, the Ministry of Industry and Trade (MOIT) implements the Program of Scientific Research, Application and technological transfer for Environmental Industry Development. On May 07th 2010, MIT issued the Decision 2347/QD-BCT on approved tasks of 2011 in the Program of Scientific Research, Application and technological transfer for Environmental Industry Development” under “the Plan for Vietnam Environmental Industry Development by 2015 and Vision by 2025”, including 13 tasks and subjects related to research, technological application, design and technological application for waste treatment.</p> <p>Accordingly, the environmental industry in general and categories of environmental services in particular are being under existence and development in Vietnam. Along with the Party and State’s concern, incentive policies, the domain of environmental services shall become stronger, eligible for domestic demands in the coming time.</p>
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	<p>Direction, view of ES development plan</p>	<p>The Government's Prime Minister issued the Decision 249/QĐ-TTg on February 10th 2010 on the approval of "the Plan for environmental service development by 2020"; with this in view, environmental services is a crucial part in the master strategy of service development for national socio-economic advance. This sector is expected to raise competitiveness of environmental service enterprises at home, according to appropriate roadmap and regulations of the World Trade Organization (WTO). The organizations and individuals at home and abroad are encouraged and given favorable conditions to make contributions to the development of environmental services.</p> <p>The Plan for environmental service development targets to provide environmental protection services for all branches, lines, domains and localities, increase the proportion of service sector in the economy and create more employments for Vietnam's sustainable growth.</p>	<p>Decision 249/QĐ-TTg of February 10th 2010</p>	<p>10/2/2010</p>	<p>The Government's Prime Minister, in accordance with the given goals, issued the Decision 249/QĐ-TTg on the approval of the tasks carried out in the coming future, including the development of environmental service enterprises and environmental service market in Vietnam. Its gist is the network planning of environmental service enterprises on national scale, the expansion of this network, the establishment of some eligible state-owned enterprises on environmental services which shall tackle complex issues of Vietnam.</p> <p>The Decision 249/QĐ-TTg of the Government's Prime Minister is an important legal ground for the development of environmental services as well as the network for environmental service enterprises.</p>
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	Direction, view of ES development	Section 11 refers to the regulations on development of the environment-friendly manufacturing industries, recycled products, energy production from wastes ... with stimulus measures using the products.	Decision 166/2014/QD-TTg dated 21st January, 2014 on the implementation plan of the national strategy to protect environment towards 2020, with a vision towards 2030 issued by the Prime Minister	21/1/2014	The section also impresses that the system of legal documents on the development of environmental services shall be improved and completed, with particular emphasis on handling, waste and recycling technologies, environmental treatment solutions; The implementation of the above decisions no. 249 and no. 1030 shall be encouraged
	Policy and legislation framework for ES development	The policy and legislation framework supports the development of environmental services, gradually to meet the demand for environmental services in the country, thereby creating the favorable conditions for organizations and individuals implement better environmental protection obligations.	On progress of development and approval		The framework formulation detailed the articles of Decision no. 249, Decision 1030 and Decision 166.

	Solid waste management/treatment services	The State encourages all forms of investment in the domain of solid waste, including: business cooperation contract (BBC), build-operate-transfer (BOT), build-transfer-operate contract (BTO), build-transfer contract (BT), acquisition of enterprises, purchase of bonds, investment in securities and other investment forms under the Investment Law.	Decree 59/2007/NĐ-CP of April 09 th 2007 Article 12, 13	24/4/2007	<p>The States issues preferential policies and investment incentives for both organizations and individuals at home and abroad to found solid waste treatment establishments and ancillary works, such as exemption from land use fee, financial support for ground clearance compensation, import levy exemption for equipment and materials of investment projects, the exemption and reduction for enterprise income duty, priorities for the selection of domestically finished technologies which treat solid waste thoroughly and create economic and technical value, support for technical infrastructure investment including transportation, electricity, energy, communications, water supply and drainage and construction fence.</p> <p>In addition to regulations on solid waste management, the Decree 59/2007/ND-CP stipulates other preferential policies and support to encourage organizational and individual participation in this field.</p>
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	Incentives	The States gives incentive policies for the socialization of educational, vocational, healthcare, cultural, sports and environmental activities	Decree No.69/2008/N D-CP dated on 30 May, 2008 by the Government on incentive policies for the socialization of educational, vocational, healthcare, cultural, sports and environmental activities Article 5,6,7,8	15/6/2008	<p>The applicable incentives for business establishments to encourage socialization investments to strengthen infrastructure, improve service quality:</p> <p>The companies/ organisations sponsored and ordered by the Sates, to participate in bidding for projects and contracts funded with domestic and foreign capital in accordance with functions and responsibilities of the Law and to lease infrastructure in the long run with preferential fee.</p> <p>The companies/organisations may receive or lease land with completed site clearance from the State for the construction of works and is exempted from registration fees and others charged for the use of land and ownership of assets attached to land.</p> <p>The companies/organisations shall enjoy preferential treatment regarding value-added tax and import-export duties under the Law on the Value-Added Tax, the Import Tax and Export Tax Law and other current regulations.</p>
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	Incentives	<p>The incentive policies for environmental domains are applied for the organizations and individuals who conduct the investment projects on environmental protection activities in terms of start-up, expansion, productivity increase, business capacity improvement, technological innovation, scientific research, transfer and application of waste treatment-recycle technology, environmentally-friendly technologies and the relocation of seriously polluting establishments. These referred to as “The investment projects on environmental protection activities” shall enjoy land/capital incentives, tax/fee exemption or reduction, price subsidies, product consumption support and other preferences for environmental protection activities/products.</p>	Decree 04/2009/ND-CP of January 14 th 2009 Section I, II, III, IV	1/3/2009	<p>Many localities such as Hanoi, Da Nang, Lao Cai, etc., provincial-municipal People’s Committee have promulgated regulations/principles on environmental protection to concretize some contents of Environmental Protection Law, other environment-related guidelines, policies and laws of the Government to suit each local’s situation and context (below referred as to Regulations for short).</p> <p>The Regulations initially mention socialization; encouraging organizations and individuals to launch programs and projects on environmental protection activities with incentive policies on tax, land and capital.</p> <p>Up to now, these Regulations have not been concretized yet, however the localities have not taken account of environmental service development.</p>
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	<p>List of sectors entitled to investment preferences, including environmental protection.</p>	<p>The Law and the Decree specify the list of sectors entitled to investment preferences, including environmental protection.</p>	<p>Investment Law 2014 Articles 15 and 16 of the Law</p> <p>Decree 108/2006/ND-CP dated 22/9/2006 (Appendix I)</p>	<p>1/7/2014</p>	<p>-Domains entitled to special investment preferences: pollution treatment and environmental protection; production of equipment for pollution treatment and observation and analysis of the environment, collection and treatment of wastewater, waste gas and solid waste; recycling or reuse of waste.</p> <p>-Domains entitled to investment preferences: Manufacture of equipment for responding to and dealing with oil spill, for waste treatment, Investment in the construction of technical facilities and works: laboratories and experimental stations to apply new technology to production; investment in the establishment of research institutes.</p> <p>The domains mentioned above shall enjoy the incentives on enterprise income tax, import tax, land use tax, land rents and water surface rents.</p>
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	<p>Incentives on CIT</p>	<p>The incentives on CIT specified as follows:</p> <ul style="list-style-type: none"> - The tax rate of 20% for business establishments newly established under investment projects in branches, lines and domains on the list of investment incentives. -The tax rate of 15% for business establishments newly-set up under investment projects in branches, lines and domains on the list of investment incentives, which are implemented in geographical areas in socio-economic difficulties; - The tax rate of 10% for business establishments newly set up under investment projects in branches, lines and domains on the list of investment incentives, which are implemented in geographical areas in exceptional socio-economic difficulties. <p>The duration of application of the preferential enterprise income tax rates is applied from 10-15 years depending on the invested areas</p> <p>After the duration of application of the preferential tax rates, newly-established cooperatives and business establishments newly set up under investment projects shall have to pay CIT following the standard CIT rate in Vietnam, from January 2009, which was 25%. This rate is 22% from 1 January 2014, and will be 20% from 1 January 2016.</p>	<p>Law on Corporate Income Tax in 2008 and the revised Law no. 32 in 2013</p> <p>Decree No.218/2013/ND-CP guiding on Corporate Income Tax</p>	<p>01/1/2009 and 01/1/2014</p>	<p>The CIT rate was 28% in 2003 under the Decree 164/2003/ND-CP dated 22/12/2003.</p> <p>The CIT in period of 2009-2013 was 25%. The rate is 20% as from 2016.</p>
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	<p>Incentives on tax exemption</p>	<p>Five years of tax exemption for goods imported to create fixed assets of projects entitled to investment or investment projects funded with official development assistance (ODA) capital sources</p> <p>Raw materials, supplies and semi-finished products which cannot be produced in Viet Nam and are imported in service of production activities of investment projects on the list of domains in which investment is encouraged; semi-finished products which cannot be produced at home and are imported in service of production activities of investment projects on the list of domains in which investment is particularly encouraged or the list of geographical areas meeting with exceptional socio-economic difficulties, shall be exempted from import tax for 5 (five) years.</p>	<p>Law 45/2005/QH11 on Import-Export Tax (Article 16, Clause 6)</p> <p>Decree 149/2005/ND/CP on December 8th 2005 on detailed implementation of the Import-Export Tax Law</p>		
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	Land rent exemption	<p>Land rents and water surface rents shall be exempted in the following cases:</p> <ul style="list-style-type: none"> - Three years for projects on the list of domains where investment is encouraged; at new production or business establishments of economic organizations which are relocated under planning or due to environmental pollution. -Seven years for projects of investment in geographical areas facing socio-economic difficulties; projects on the list of domains where investment is specially encouraged. -Eleven years for projects of investment in geographical areas facing exceptional socio-economic difficulties; projects on the list of domains where investment is encouraged which are executed in areas facing socio-economic difficulties. - Fifteen years for projects on the list of domains where investment is encouraged which are executed in geographical areas facing exceptional socio-economic difficulties. 	<p>Decree 46/2014/NĐ-CP dated 15/5/2014</p> <p>Article 19</p>	01/7/2014	<p>In general, the land rent exemption in the Decree 46 as the same as the exemption in Decree 142/2005/ND-CP (Article 14)</p>
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	Incentives on import duties	Machinery, equipment, means, tools and materials imported on the List of those eligible for incentives and supports enclosed with this Decree are used in waste collection, storage, delivery and recycling; environmental monitoring and analysis, clean and renewable energy production.	The Circular 101/2010/TT-BTC of July 14 th 2010 guides import tax exemption of Government's Decree 04/2009/ND-CP of January 14 th 2009, on incentives and support for environmental protection activities. Article 3	28/08/2010	
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	Incentives of ES development	Circular No. 212/2015/TT-BTC of December 31st, 2015 on guidelines for the corporate income tax policies for environmental protection activities regulated at the Government's Decree No. 19/2015/ND-CP dated February 14, 2015 detailing the implementation of a number of articles of the Law on Environmental protection	Circular No. 212/2015/TT-BTC	14/2/2016	<p>Guidelines for enterprise income tax (EIT) policies for projects invested in the domain of environmental protection under Decree No. 19/2015/ND-CP</p> <p>The tax incentive policies provided in this Circular are only applied to projects of new investment. Particularly, projects of expansion investment shall comply with the common provisions of laws in EIT (clause 1, clause 3 Article 3)</p> <p>Under this Circular, some deductible expenses are supplemented upon determination of EIT such as: expenditure on advertising products from activities of collection and treatment of discarded products; expenditure on provision of complimentary boots, gloves and other single-purpose tools for people for classifying daily-life wastes and discarded products at source (Article 2)</p>
		Legal documents specified in the operating conditions of a number of organizations that provide environmental services			

	Environmental monitoring service	Decree 127/2014/ND-CP of December 31 st 2014 on conditions of operation organisations in environmental monitoring service	Decree 127/2014/ND-CP dated 31/12/2014	15/2/2015	Only for domestic enterprisers
		Circular no. 19/2015/TT-BTNMT dated 23/4/2015 detailing the assessment and appraisal of conditions of eligibility for provision of environmental monitoring services and certificate form.	Circular no. 19/2015/TT-BTNMT dated 23/4/2015	9/6/2015	
	Waste and scrap management	The Decree no. 38/2015/ND-CP of April 24 th 2015 on waste and scrap management	Decree no. 38/2015/ND-CP	15/6/2015	- Decree guiding the implementation of the Environmental Protection Law 2014 on the management of waste and scrap, which prescribes the operation conditions of enterprises in collection, transportation, disposal hazardous wastes Other decrees on the Environmental services identified in LEP 2014
		Legal documents specified the economic-technical norms and rates in environmental services			
		Decision No. 322/2012/QD-BXD dated 6 April 2012 of the Ministry of Construction on the announcement of rates of construction investment capital and level of expenses for treatment of life-circle-based solid wastes.	Decision No. 322/2012/QD-BXD	6/4/2012	
		Decree No. 80/2014/ND-CP in August 6 th 2014 on the drainage and treatment of wastewater	Decree 80/2014/ND-CP	1/1/2015	

		Decision No. 451/QD-BXD dated April 21st, 2015 on announcement about investment in construction and costs of treatment of domestic wastewater	Decision No. <u>451/2015/QD-BXD</u>	21/4/2015	
		Legal documents specified national standards on environment			
	The standards for ambient environmental quality	National Technical Regulation on standards for ambient environmental quality			The standards for air quality: 02 National Technical Regulations (QCVN) on hazardous substances in ambient air (QCVN 06:2009/BTNMT) and ambient air quality (QCVN 05:2009/BTNMT)
	Industrial Wastewater	National Technical Regulation on Industrial Wastewater.	Circular 47/2011/TT-BTNMT dated 28/12/2011 on the National Technical Regulation on Environment: QCVN 40:2011/BTNMT	15/2/2012	<u>Circular 47/2011/TT-BTNMT</u>

	Health care solid waste incinerators	National technical regulation on the emission of health care solid waste incinerators	Circular 41/2010/TT-BTNMT dated 28/12/2010 on National technical regulation on the emission of health care solid waste incinerators		Circular 41/2010/TT-BTNMT dated 28/12/2010
	sediment quality and water offshore quality	National technical regulation on <u>sediment quality and water offshore quality</u>	Circular No. 10/2012/TT-BTNMT dated October 12, 2012 regulating national technical regulations on the environment.	12/12/2012	

	<p><u>wastewater of the solid waste landfill sites</u></p>	<p>National technical regulation on <u>wastewater of the solid waste landfill sites</u></p>	<p><u>Circular 25/2009/TT-BTNMT dated November 16, 2009</u></p>	<p>01/1/2010</p>	<p><i>The Circular issues 8 National Technical Regulations</i> QCVN 25: 2009/BTNMT - National Technical Regulation on landfill of waste water and solid waste</p> <p>This regulation provides for maximum allowable values of pollution parameters of leachate from solid waste landfill discharged into receiving facilities</p>
	<p><u>industrial emission of organic substances</u></p>	<p>National technical regulation on <u>industrial emission of organic substances</u></p>	<p><u>Circular 25/2009/TT-BTNMT dated November 16, 2009</u></p>	<p>01/1/2010</p>	<p>QCVN 20: 2009/BTNMT - National Technical Regulation on industrial emissions for some organic substances</p> <p>This regulation provides for max allowable concentration of organic substances in industrial emission sent into ambient air, applies to organizations and individuals related to the industrial emission containing organic substances into ambient air.</p>

	<p><u>industrial emission of inorganic substances and dusts</u></p>	<p>National technical regulation on <u>industrial emission of inorganic substances and dusts</u></p>	<p>Circular 25/2009/TT-BTNMT dated November 16, 2009</p>	<p>01/1/2010</p>	<p>QCVN 19: 2009/BTNMT - National Technical Regulation on industrial emissions for dusts and inorganic substances</p> <p>This technical regulation stipulates max allowable concentration of dusts and inorganic substances entered into ambient air, applies to individuals and organizations carrying out activities related to the sending of the industrial emission containing dusts and inorganic substance into ambient air.</p>
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	<p><u>hazardous waste threshold</u></p>	<p>National technical regulation on <u>hazardous waste threshold</u></p>	<p>Circular 25/2009/TT-BTNMT dated November 16, 2009</p>	<p>01/1/2010</p>	<p>QCVN 07: 2009/BTNMT - National Technical Regulation on hazardous waste threshold</p> <p>This technical regulation stipulates hazardous waste thresholds for wastes and mixture of wastes (excluding radioactive waste, waste in the gaseous and vaporous form) listed in the List of hazardous waste promulgated by Ministry of Natural Resource and Environment. This technical regulation is applicable to individuals and organization generating waste, units collecting, transporting, storing, treating, landfilling and disposing waste; state management agencies; sampling, analyzing units and individuals and organizations conducting activities related to waste.</p>
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