

Policy Framework for Green FDI Attraction: From the Theory to Practice in Vietnam

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ABSTRACT

After 30 years since the Foreign Investment Law was promulgated in December 1987, Vietnam's policy and law on business investment has been increasingly improved and become an important factor to help successfully attracted FDI. However, in the new context, it is necessary for Vietnam to continue to improve its institutional and policy mechanisms to enhance new generation FDI attraction in line with the goals of sustainable economic, social and environmental development. This study provides an overview of the policy framework to attract green foreign investment (green FDI) and the current policies to attract green FDI in Vietnam from 2010 to present. The results provide a comprehensive view of the policy framework for attracting green FDI, the current policies to attract green FDI in Vietnam, and recommendations to attract green FDI to fulfil new FDI attraction strategy in Vietnam up to 2035.

Keywords: Green growth, Green FDI, policy for green FDI attraction, Vietnam.

Mathematics Subject Classification: 62J12, 62G99

JEL Classification: C58, E22, F21

1. INTRODUCTION

Over the last quarter of a century, the world economy has quadrupled, benefiting hundreds of millions of people. In contrast, however, 60% of the world's major ecosystem goods and services that underpin livelihoods have been degraded or used unsustainably (UNEP, 2011). Indeed, this is because the economic growth of recent decades has been accomplished mainly through drawing down natural resources, without allowing stocks to regenerate, and through allowing widespread ecosystem degradation and loss (UNEP, 2011). Therefore, finding an environmentally friendly growth model is becoming more and more urgent, especially for developing countries like Vietnam.

After 30 years of implementing the open policy, Vietnam has become one of the most successful economies in attracting FDI. Vietnam's policies over the past 30 years have contributed to promoting the FDI sector to become a dynamic area and more and more contributions to socio-economic development. Accumulated by the end of 2018, there are 27,353 projects in the whole country still valid with a total registered capital of USD 340.1 billion [8]. According to the calculation, FDI capital accounted for 22-25% of the total social investment capital, FDI sector accounted for 55% of industrial output value, 70% of export turnover, 18% of total budget revenue, 20% of GDP and created jobs for over 3.7 million direct workers [5]. However, in addition to the positive aspects, FDI in Vietnam still has some drawbacks, such as average level of technology, price transferring, tax evasion and more importantly some projects have being licensed but not ensuring sustainability, causing environmental pollution, consuming energy and resources. Therefore, promoting FDI attraction on the basis of FDI restructuring towards green growth and completing green policy frameworks to attract FDI is very urgent in the current period.

2. RESEARCH METHOD

The methods are used, including: Analyzing and synthesizing data set; method of comparing and inheriting available resources.

In terms of data, this study mainly uses secondary data: data related to foreign direct investment from the General Statistics Office; Studies of relevant domestic and foreign scholars.

3.3. RESULTS

3.1. Theoretical basis of policy framework to attract green FDI

3.1.1 Concept of green FDI

Today, the concept of green growth and green development is relatively popular, but there are few studies on the concept of green FDI. This concept has only been mentioned in some studies of UNCTAD and OECD (2011) [12,14,15,16,17].

UNCTAD (2008) mentioned that green FDI refers to two types of investment: (i) FDI follows national environmental standards and (ii) invest in direct production of environmental products and services in the host country. UNCTAD's 2010 investment report focused on low-carbon FDI - part of green FDI and defined as: Low-carbon foreign investment can be defined as the transfer of technologies, practices or products by TNCs to host countries – through equity (FDI) and non-equity forms of participation – such that their own and related operations, as well as use of their products and services, generate significantly lower GHG emissions⁴ than would otherwise prevail in the industry under business-as-usual (BAU) circumstances. Low-carbon foreign investment also includes FDI undertaken to access low-carbon technologies, processes and products. Low-carbon FDI includes attracting FDI to access low-carbon technologies, processes and products. This report also distinguishes 3 concepts of "low carbon", "green" and "sustainable". While "low carbon" refers to processes or products that emit less GHG emissions during its operational cycle than traditional processes and products; the concept of "green" refers to technology or activity that cares about broader environmental issues, not just climate change; and "sustainable" development is a broad concept of interest in the use of natural potential for economic and social issues [17].

OECD (2011) argues that green FDI consists of two parts: (i) FDI in the field of environmental goods and services and (ii) FDI in the process of environmental mitigation such as using cleaner technology or energy efficient [12].

Thus, it can be seen that, whether the focus is on "green" or "low carbon", in the concept of OECD and UNCTAD, there are similarities: the division of FDI in two directions is to invest in commodity products and service and investment in production processes. The OECD definition is derived from UNCTAD's research on environmental products and services of APEC and Eurostat and low carbon so it is more general. From the definition of OECD, UNCTAD, green FDI is FDI into environmental production and services or that FDI has a production process that minimizes environmental damage; aims to develop the economy while making reasonable use of resources, avoiding environmental destruction, climate change and ecological imbalance in the investment in the host country.

3.1.2. Policy framework for green FDI attraction

The policy framework includes the systems of administrative, legal and strategic regulations of the country on which the Government, agencies and local authorities operate the economy to achieve goals for each certain historical period. The policy framework consists of two levels, national policy framework

and international policy framework. While the international policy framework includes elements of bilateral and multilateral investment agreements, international economic links, the national policy framework is divided into two groups: the inner policy framework and the outer policy framework. The inner policy framework is national regulations that directly relate to foreign direct investment. The outer policy framework is the policy framework indirectly related to foreign direct investment.

UNCTAD (2010), in the "World Investment Report" provides a policy framework for low-carbon FDI including general policies on investment and climate change-related policies. [16]. According to UNCTAD, the policy of low-carbon FDI policies is the provisions of law and policy while maintaining economic growth and conserving natural capital. It includes fiscal and regulatory policies such as tax and competition policies. The important policies for green investment include environmental policies, technology policies, energy policies and patent policies, ... (Table 1).

Table 1. General policy framework, UNCTAD (2010)

General policies	Climate change-specific policies
• Economic, political and social stability • Good governance • Policies on functioning and structure of markets (esp. competition, M&A and simple, transparent reporting standards in line with common international practice) • Protection of property rights (including intellectual property) • Industrial and regional policies; development of competitive clusters • Trade policy (tariffs and non-tariff barriers) and stable exchange rates • International investment agreements (IIAs)	• Nationally Appropriate Mitigation Actions (NAMA) • National Adaptation Programmes of Action (NAPA) • Environmental policy (environmental standards, carbon taxes, cap and - trade schemes for greenhouse gas reductions) • Industrial policy (incl. energy efficiency standards) • Public procurement of energy efficient products • Energy policy (e.g. requirements of renewable/low-carbon energy shares in energy mix of utilities, feed-in tariffs, subsidies and incentives for low-carbon investments) • International/domestic financial mechanisms (carbon markets, public/ private finance mechanisms) • National JI or CDM policy framework • Technology policy (related to generation, dissemination and diffusion of low-carbon know-how) • Trade policy adjustments for low-carbon activities (e.g. tariff reductions for capital goods/inputs for low-carbon activities, tariff policy of the home country with respect to potential host countries – for export activities of TNCs)

(Source: [16, p118])

According to UNCTAD, it can be seen that specific policies to attract low-carbon FDI are policies on environment, industry, public procurement, energy and trade - with Nationally Appropriate Mitigation Action (NAMAs) and National Adaptation Programme of Action (NAPA). Those policies may help increase demand for low carbon products and services, especially in energy and transportation, construction and industry. A stable environment and a feasible policy framework is a key factor to help localities attract low-carbon investments.

UNCTAD (2012) in the Investment Report, provides a policy framework to attract FDI towards sustainable development including direct policies to investment (penetration, treatment ...) and indirect impact policies on investment (policy about right of land use, intellectual property, environment ...). However, this policy framework for sustainable development does not emphasize and clarify on environmental and climate change regulations. [15].

According to Corfee Morlot, J et al. (2012), (OECD environment working papers), elements of a green investment policy framework are a combination of investment policies and environmental policies [7].

Table 2. Integrating climate and investment policies: elements of a green investment policy framework

Investment Policies	Elements of a green investment policy framework		Climate Policies
	1. Strategic goal setting and policy alignment	Clear, long-term vision and targets for infrastructure and climate change; policy alignment and multilevel governance, including stakeholder engagement	
	2. Enabling policies and incentives for LCR investment	Sound investment policies to create open and competitive markets; market based and regulatory policies to “put a price on carbon”, remove harmful subsidies and correct for environmental externalities	
	3. Financial policies and instruments	Financial reforms to support long-term investment and insurance markets; innovative financial mechanisms for risk-sharing such as green bonds; transitional direct support for LCR investment	
	4. Harness resources and build capacity for a LCR economy	R&D, human and institutional capacity building to support LCR innovation, monitoring and enforcement, climate risk and vulnerability assessment capacity	
	5. Promote green business and consumer behaviour	Corporate and consumer awareness programmes, corporate reporting on climate change, information policies, outreach	

(Source: [7, p29])

Based on the theoretical analysis of UNCTAD and OECD, it is possible to provide a policy framework to attract FDI with two parts as follows: (i) general policies affecting investment and (ii) environmental policies related to investment.

Table 3. Factors of a policy framework to attract green FDI

Investment policy	Environmental policy	Policy links	
		Policy	Content
1. Direct policy	1. <i>Environmental policy</i> : environmental standards, carbon taxes, GHG emissions reduction, waste treatment regulations and forest exploitation and protection. 2. <i>Industrial policy</i> : includes standards for energy efficiency	Create policies and encourage investment towards green growth	- Policies to facilitate and mobilize investment: transparency, investment protection, non-discrimination and protection of intellectual property rights
1.1. <i>Policies related to penetration and operation</i> : List of sectors that encourage, limit and prohibit investment.			- Open and competitive market: reducing non-tariff barriers for green products and services; competition policy ...
1.2. <i>Policy on protective investment or treatment standards</i> : Includes commitments to fair treatment and			- Market incentives for green investment: carbon taxes,

not to distinguish between investors. 1.3. <i>Competition policy</i> : Principles of equality and transparency	3. <i>Energy policy</i> : requirements on the ratio of renewable energy / low carbon in energy products, feed-in-tariffs (preferential prices), subsidies and incentives for low-carbon investments. <i>Technology policies</i> : relating to manufacturing and pervasiveness green technology.		emission trading systems, clean development mechanisms (CDM), cap-and-trade policies, ... - Other regulations and policies to create markets and eliminate green investment barriers: environmental policies, fuel efficiency standards for vehicles, standards in construction, public procurement, ...
2. Indirect policy		Financial policies and tools	- For example: Public Private Partnership Agreement (PPP), "green" bonds, feed-in-tariffs,
2.1. <i>Trade policy</i> : Includes monetary and tax policies. 2.2. <i>Property rights policy</i> : Ownership of property of investment enterprises 2.3. <i>Labor policy</i> : restricting or prioritizing the use of foreign workers, prioritizing or not prioritizing domestic labor. 2.4. <i>Policy on right of land use</i> 2.5. <i>Policy on international integration and international investment cooperation</i>		Exploiting resources and building facilities for a green economy	- Encourage invention with R&D policy - Training, education and human resources: labor market policies and skills development - Administrative ability to evaluate, manage and enforce

(Source: Author)

3.2. Policy framework for attracting green FDI in Vietnam

3.2.1. Current situation of policies to attract FDI and green FDI in Vietnam

In the past 30 years, Vietnam has continuously improved preferential institutions and policies to attract foreign investment. As early as 1987, Vietnam had initial regulations on investment incentives, focusing primarily on income tax reduction. After the Investment Law 2005 was promulgated, in order to be compatible with WTO regulations, in addition to familiar preferential forms such as corporate income tax, land rent, import and export taxes, more and more other incentives appeared such as individual income tax incentives for employees, support for administrative procedures, infrastructure investment costs, interest rate support, price subsidies and product consumption for some sectors that are difficult to attract investment such as clean energy and petrochemical... The Investment Law 2014 with many

policies on investment incentives for FDI investors has been clearly demonstrated through investment assurance measures including: (i) Assurance of property ownership; (ii) Assurance of business operations; (iii) Assurance of transferring assets of foreign investors abroad; (iv) Government guarantee for a number of important projects; (v) Assurance of business investment in case of changing laws and settling disputes in business activities. Accordingly, the Government ensures that legal capital and assets for FDI investors are not nationalized or confiscated by administrative measures. In fact, policies related to ensuring investment in Vietnam have been adjusted towards a more open and secured ownership of legal assets of FDI investors (no confiscation, nationalization, allowing FDI investors to choose the most favorable incentives if there are changes in policies and laws). The law of Vietnam has applied the principle of "non-retroactivity" according to international practice, giving investors the right to protect themselves from the policy changes of the local government. In general, the investment incentive policies have become more and more complete, synchronous and unified, bringing about many results for attracting FDI in Vietnam.

Box: Preferential financial policies to attract FDI in Vietnam

In general, Vietnam's preferences are mainly financial, focusing on three areas: (i) Preferences on corporate income tax rates, (ii) Incentives on import and export taxes and (iii) Preferential policies on land.

** Preferences on corporate income tax rates:* the general tax rate is declining, the period 2001-2008 is 28%, the period from 2009 to 2013 is 25%, the period from 2014 to 2015 is 22% and from 2016 to now is 20%. In addition, the Corporate Income Tax Law also stipulates high-level tax incentives for a number of key sectors that need to encourage investment.

** Preferences on import and export taxes:* The Law on Export Tax and Import Tax of Vietnam also continuously updated and revised in the years of 2001, 2005 and 2016 to meet the requirements of integration commitments and at the same time continue to improve export preferential policies and attract foreign investment.

** Land incentives:* From 2005 up to now, financial preferential policies on land have always been revised in a way that benefits investors. The Government of Vietnam has issued many supporting policies and solutions, namely: (i) 50% reduction in land rent for the period 2011 - 2014; (ii) Adjusting the rate of calculating the common land rent rate from 1.5% to 1% and the provincial People's Committee stipulates the ratio (%) in the range of 0.5% - 3% for each area and route corresponding to each land use purpose to apply land rent in localities; (iii) Regulating the application of land price adjustment coefficients in determining land prices for collection of land rents for land plots or land plots with the value of the land rents calculated according to land prices in the land price table of under VND 30 billion with the central city; less than 10 billion VND with mountainous provinces; less than 20 billion VND with the remaining provinces. In addition, implementing the 2003 Land Law followed by the 2013 Land Law, the Government of Vietnam issued many Decrees to support businesses, improve the business environment: exemption of land rent and water surface rent with investment projects in sectors and geographical areas eligible for investment incentives according to the investment law; Incentives in the field of socialization; Incentives when investing in agriculture and rural areas; expand the scope of application of land price adjustment coefficients and application objects to determine financial obligations regarding land rents for enterprises that have reformed administrative procedures, shortened the determination time and paid land rents into the state budget and partial support for businesses.

(Source: [5,p30])

In order to implement the goal of attracting green FDI, ministries, branches and localities of Vietnam have issued many policies in accordance with international law to fully and properly implement the requirements of environmental protection such as the Investment Law 2014; Environmental Protection Law 2014. These documents have developed FDI project management sanctions at different stages, namely: (i) With the stage of business registration, in general, it has stipulated that the legal industries prohibit business or conditional business, which is related to the environment; some incentives for investment that can positively impact the environment; (ii) For the preparation of investment and construction, request for strategic environmental assessment, environmental impact assessment, environmental protection planning and submit to the authorities for approval. (iii) For the period of operation, the Environmental Protection Law 2014 also stipulates the prohibited acts such as: Vandalism, illegal exploitation of natural resources; mining by tools and methods of destruction; transporting and burying toxic substances, radioactive substances, wastes and other hazardous substances not according to the technical process of environmental protection; disposal of untreated waste; put into sources of toxic chemicals, waste, unregulated microorganisms and other toxic agents for humans and organisms; import and transit waste from abroad in any form ...

However, the system of legal documents on environmental protection is incomplete and inconsistent, failing to meet the requirements of attracting green FDI; governmental management on environment is prone to pre-inspection (investors must make an environmental impact assessment report before implementing the investment process for projects need to have environmental impact assessment), not paying attention to post-inspection, and at the same time, lack of sanctions for strict handling". Therefore, the goal of attracting green FDI in Vietnam has not achieved the expected results yet, so it is necessary to have an appropriate policy framework aimed at attracting green FDI to the sustainable economy of Vietnam up to 2035.

3.2.2. Proposing a policy framework on green FDI attraction

The content of the policy framework on green FDI attraction in Vietnam is to integrate environmental and climate change issues to meet the requirements of the Strategy and the National Green Growth Action Plan by 2030 on all aspects of policy with the goal of simultaneously minimizing adverse environmental impacts while maximizing socio-economic purposes in line with each stage of development economics based on pillars: (i) Achieve competitiveness along with sustainability; (ii) Create dynamic and efficient economic sectors; (iii) Conservation and enhancement of natural resources to meet the new generation of FDI attraction targets and to ensure compliance with the objectives of the Vietnam report 2035 at national and international levels (Table 4):

Table 4. Content and orientation of policy framework to attract green FDI in Vietnam

Policy Group		Content, orientation of policy
1	International	- Complete legal regulations on production, trade and investment towards international standards. - Expand cooperation for countries and international organizations with experience in green production.
2	National	
2.1	<i>The inner policies</i>	Policies directly related to green FDI: - Encouraging investment in green FDI industries (producing environmental products and services, using environmentally friendly technological lines) through incentives on land, taxes and property ownership.

		- The policy restricts FDI projects to sectors and areas at high risk of environmental pollution or projects using outdated technology lines, causing pollution by technical barriers or planning.
2.2	<i>Outer policies</i>	Outer policies have important effects to ensure green FDI attraction, including: - Group of policies related to economic development, including some important points: • Determine the growth rate target associated with the growth model and key sectors (especially in industrial production) to create orientation in green FDI promotion activities. • Trade policy and international economic integration (linked to FTAs, tariff and non-tariff barriers) to deeply participate in the global value chain, thereby expanding markets to attract green FDI investors. • Policies on land, intellectual property and competition to create confidence for green FDI investors about a fair and transparent environment. • Labor policy to ensure local human resources meet the requirements of green FDI investors. - Group of policies related to environmental protection include: • Law on environmental protection is associated with environmental standards and related taxes and fees. • National Strategy and Action Plan on green growth. • The national energy development policy is aimed at using energy saving and improving the rate of clean energy sources.

(Source: Author)

The formation of a policy framework to attract green FDI links to inner policies to attract FDI (policies directly related to investment include policies on establishment, operation, treatment standards and regulations regulating market activities) with outer policies to attract FDI (policies on trade, property rights, land use rights, environment, energy development and skills training for the workforce, innovation, creation) will support the upgrading of the economy, contributing to increasing the contribution of FDI in improving productivity, stimulating innovation, promoting internationalization, increasing added value, maintaining "green" economic growth, narrowing the economic development gap between localities.

4. CONCLUSION

The policy of attracting FDI plays a vital role on the achievement of the strategy 2035 in Vietnam. Over the past years, Vietnam has made great efforts in improving the policy framework aimed at attracting new generation FDI - Clean FDI for green economy. However, the fact of development shows that green FDI attraction policies are overlapped, inconsistent between legal documents, making it difficult for domestic and foreign investors. Therefore, to enhance the attraction of green FDI, ensure sustainable development, encourage innovation in the future, the most important thing is to complete the institutional framework and policy according to international standards, operate the market types effectively to overcome the restriction of policies during the past time.

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