

Legal framework for water resources management

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I. Legal Documents for water resources management

Some important legal documents have been issued:

- Law on Water Resources No 08/1998/QH10 dated 20/05/1998.
- Ordinance on Exploitation and Protection of Hydraulic Works No 36L/CTN-dated 10/09/1994.
- Ordinance on Dykes and Dams No 26/2000/PL-UBTVQH10 dated 7/9/2000.
- Ordinance on Flood and Storms Controlling (amended and supplemented 24/8/2000)

Decrees of Guidelines on the implementation of the Law on Water Resources and the above-mentioned Ordinances have also been enacted. Based on the Law on Water Resources, the Government has issued the Decree No 179/1999/ND-CP stipulating the implementation of the Law on Water Resources.

The National Council of Water Resources was also established in accordance with the Decision No 67/2000/QD-TTg dated 15/6/2000.

In conformity with the current situation and to the Law on Water Resources, the Standing Committee of the National Assembly has compiled three Ordinances (revised):

- Ordinance on Exploitation and Protection of Hydraulic Works (currently being amended and to be approved).
- Ordinance on Dykes and Dams (already amended and issued No 26/2000/PL-UBTVQH10 dated 7/9/2000).
- Ordinance on Flood and Storms Controlling (amended and supplemented 24/8/2000).

II. Some main issues to be discussed at the first meeting of the National Council of Water Resources

A. On the Water Exploitation and Utilization:

1. For domestic use

a) In urban areas:

At present, over 60% of the urban population have access to safe water with the quantity of 60-80 litter/person/day. In the case of such large cities as Hanoi and Ho Chi Minh City, this standard quantity is higher.

However, in the early XXI century, there remains about 40% of the urban population without access to hygienic water and over 90% of the urban areas lacking a sufficient system of drainage.

b) In rural areas:

In the period of 1996-2000, the number of rural people provided with safe water increased further 14%, and the average growth rate 5% a year.

2. For the production of agriculture, industry and hydropower.

+) Up to now, there have been 75 systems of medium and large hydraulic works nation-wide, and many small hydraulic works in service of agricultural production.

The annual water quantity for agriculture:

- 1990: 47 billion m³, accounting for 90% of the consumed.
- 1999: 60 billion m³, accounting for 85% of the consumed.

+) Water quantity for industrial production increased considerably:

- 1990: 5.33 billion m³, accounting for 9.8% of the total of water consumed.
- 1999: 14 billion m³, accounting for 15% of the total of water consumed.

+) Currently, medium and large-scale hydropower plants are constructed: Thac Ba 108 MW; Da Nhim 160MW; Tri An 420MW; Hoa Binh 192MW; Thac Mo of Hinh river-Yaly, etc, and over 500 small-scale plants with the quantity of nearly 4billion kwh/a year. In the future, about 3000 small power stations with capacity of 100-1000kw and 2500 stations with capacity of less than 100kw will be constructed.

- 1999: the total power production is 13.937 kwh, accounting for 58.7% of the total power production nation-wide.

3. For fisheries:

Recently, the expansion of surface water area for raising has been particularly focused, but the application of new technology limited and the raising methods mainly adopted in large area (in over 90% of the area). Consequently, this negatively affected the ecological balance somehow, particularly in submerged areas, salt-marsh forests, greatly changing the biological capacity in the areas raising fisheries.

Additionally, the exploitation and utilization of water for water transport and flood and storms controlling in the past were paid remarkable attention. Nevertheless, flood always remains a threat to many areas nationwide.

B. Management and protection of water resources:

The State has already mapped out the planning of areas and rivers for each purpose of urgent nature in each development period.

The State has also formulated legal documents and regulations in order to create a legal framework for water resources management. (to be mentioned in detailed in the following section).

Beside, water resources management tasks were also strengthened.

C. Direction for unified and integrated management of water resources:

+) *Strengthen the system of organization and management of water resources from central to local levels:*

- Establish the NCWR Secretariat and strengthen its capacity in order to help the NCWR provide consultations for the Government on water resources management nationwide.
- Strengthen the capacity of water resources management agencies at Central level (Department of Water Resources and Hydraulic Works Management; Department of Flood, Storms Controlling and Dykes Management), and agencies at provincial levels (provincial Departments of Water Resources and Hydraulic Works

- Management, and provincial Departments of Flood, Storms Controlling and Dykes Management).
- Establish river basin organizations (RBO); firstly the RBO of Red River, and the RBO of Cuu Long river.
- +) *Establish database for water resources management.*
- +) *Complete the formation of legal documents and the dissemination of laws, creating a legal framework for water resources management.*
 - a. Formulate a full set of legal documents, assuring the effectiveness of the implementation of the Law on Water Resources:
 - i. Decree on Sanctions and Incentives in the field of Water Resources.
 - ii. Government's Decision on Special water Inspector.
 - iii. Legal document on the rate of permit-granting fees, fees for wastewater discharging, fees for controlling and preventing water from pollution.
 - iv. Inter-ministerial Circular of Guidelines on the procedures for the collection, payment, management and utilization of fees for wastewater discharging, fees for controlling and preventing water from pollution.
 - v. Circular of Guidelines on the establishment of local river basin management agencies.
 - vi. Circular of Guidelines on the management of basic inspection results, inventory, and evaluation of water resources.
 - vii. Circular of Guidelines on the transference of irrigation works for the management of organizations and individuals.
 - viii. Inter-ministerial Circular of Guidelines on the procedures for financial granting and balancing of the irrigation works-exploiting enterprises that are financially supported.
 - ix. Inter-ministerial Circulars between the Ministry of Agriculture and Rural Development and the relevant ministries and sectors in water resources management (Ministry of Industry, Ministry of Science, Technology, and Environment, Department General of Land Administration, Department General of meteorology and hydrography....
 - b) Formulate programmes for the dissemination and publishing of legal documents on water resources.

III. Issues of Irrigation Charges and Fees.

The Decree No 112 already issued is currently the basis for water-fee collection. After the enforcement of the Law on Water Resources, and in the spirit of draft Ordinance on Exploitation and Protection of Hydraulic Works (Revised), some issues relating to the finance of the hydraulic works- exploiting enterprises will be taken into full re-consideration, including the main contents as follows:

- +) Water fees.
- +) Water costs.
- +) Fees for wastewater discharging.

The levels for the three above said items will be regulated in detailed in the Decree of Guidelines on the implementation, which is to be issued.

Hereunder provides some important points of the draft Ordinance on Exploitation and Protection of Hydraulic Works (Revised):

A) In terms of exploitation and utilization of water for public benefit regime.

- 1) The state-owned enterprises and Cooperatives that exploit hydraulic works are assigned to provide public services if they use water for agricultural production.
- 2) The State offers policies of priority and financial support for the repairment and upgrading of irrigation works in the areas of hard socio-economic conditions, and in the areas of especially hard socio-economic conditions.

B) The state-run enterprises that exploit hydraulic works and the cooperatives that use water for the purpose of irrigation and drainage in agriculture are financially assisted by the State in the following cases:

- 1) Anti-waterlogging drainage pumping by the stations that are established in accordance with the planning and are operating with reference to the procedures approved by the State authorised agency;
- 2) Anti-drought drainage pumping beyond the regulated level;
- 3) Overhauling, upgrading the hydraulic works in accordance with the capital construction investment project approved by the State authorised agency;
- 4) Lost of irrigation fees due to failure of crops caused by natural disasters;
- 5) Recovering the hydraulic works destroyed by natural disasters in accordance with the capital construction investment project approved by the State authorised agency.

The Government specifies the financial support to the above-mentioned cases.

C) Water fees, water costs and waste water fees must be fully paid by:

- 1) The organizations, individuals that use water or offer water-related services for the agricultural purposes will be subject to payment of water fees;
- 2) The organizations, individuals that use water or offer water-related services from the hydraulic works for the non-agricultural purposes will be subject to payment of water costs;
- 3) The organizations, individuals that discharge wastewater into hydraulic works will be subject to payment of fees for discharging.

The state-run enterprises that exploit hydraulic works or the cooperatives that use water will collect water fees, water costs, and wastewater discharging fees in compliance with the regulations.

D) Norms of fees:

The Government specifies the frame of water fees, water costs, and wastewater discharging fees to certain types of hydraulic works, water recipients, and water-related services providers from the hydraulic works, and to real conditions of each area nationwide.

The Ministry of Agriculture and Rural Development specifies the norms of irrigation fees, water costs, and wastewater discharging fees for the state-run enterprises that exploit hydraulic works under the management of MARD.

The people's committees of provinces and cities at central level specify the norms of water fees, water costs, and wastewater discharging fees for the state-run enterprises that exploit hydraulic works, and the organizations that use water under the management of the local authority.

E) Financial sources of state-run enterprises that exploit hydraulic works and the organizations that use water include:

- 1) Water fees, water costs, and wastewater discharging fees;
- 2) Assistance from the State;
- 3) The money from the integrated exploitation of hydraulic works.

F) Methods and time of payment:

The Government specifies:

- 1) The methods and time of payments of water fees, water costs, and wastewater discharging fees by the organizations and individuals who benefit from hydraulic works for the state-run enterprises that exploit hydraulic works and the organizations that use water;
- 2) The time of payment of electricity by the state-run enterprises that exploit hydraulic works and the organizations that use water for the electricity enterprises.