



**RECOMMENDATIONS FOR THE REVISION OF THE WATER LAW:
A SUMMARY**

Vietnam River Network (VRN)

September 2011

1. RATIONALE

After 12 years, the 1998 Law on Water Resources is no longer well suited to changing conditions in Vietnam. Many weaknesses have been observed and competition over scarce water resources is becoming more severe. There is a pressing need for a new law. The Ministry of Natural resources and Environment (MONRE) is taking the lead on revising the current law and a draft is now available for public consultation.

In 2011, Vietnam River Network (VRN) received funding from IUCN's Mekong Water Dialogues (MWD) to influence the revision of the law.

2. PROGRESS

Since May 2011, VRN has undertaken various activities. Through training workshops, VRN members have been provided with background knowledge on legal aspects, water resources in Vietnam as well as analysis skills on water resources-related policies and laws. A taskforce of six experts with various backgrounds has been formed, focusing on studying available documents in order to give comments on draft 4 and 5 of this law. The members of the taskforce are:

1. Dr. Dao Trong Tu, Director of Centre for IWRM and Climate Change Adaptation, Team leader of the taskforce, member of VRN's advisory board.
2. Dr. Doan Bong, specialist on forestry, member of VRN's advisory board.
3. Dr. Le Anh Tuan, Lecturer of Can Tho University, member of VRN's advisory board.
4. MA. Lam Thu Suu, Director of Centre for Social Research and Development (CSR), member of VRN's Management board.
5. Mr. Pham Xuan Quy, Director of Centre for Thanh Hoa Climate change adaptation, VRN's member.
6. Mrs. Nguy Thi Khanh, Deputy Director of Centre for Water Resources conservation and Development, Head of VRN's management Board.

On August 24, in cooperation with VUSTA, VRN organized a workshop for scientists, NGOs, local officers, and media groups to present and get feedback on the task force findings. Many ideas and suggestions were raised by the participants on both the structure and content of the draft versions.

3. KEY FINDINGS

In May-August 2011, DWRM released versions 4 and 5 of the draft law, namely. The review team focused on the following issues:

1. Basin-wide Integrated Water Resource Management

In version 4, this issue was mostly covered under Chapter II: River Basin Management:

- Article 12. Contents of river basin management
- Article 13. Profiles of river basins
- Article 14. River Basin Committee
- Article 15. River Basin Office
- Article 16. Plan for prevention of water sources pollution of water sources and restoration of polluted water sources in river basins
- Article 17. Response and restoration of water pollution incidents in river basins
- Article 18. Inter-reservoirs operating procedures in river basins
- Article 19. Equitable and reasonable exploitation and use of water resources
- Article 20. Regulation and allocation of water resources in river basins

- Article 21. Basin water diversion
- Article 22. State management of the river basin

In version 5, there was no separate chapter on river basin management. Articles on the Contents of river basin management, List of river basins, River Basin Committee, River Basin Office, and State management of the river basins were removed although River Basin “Organisations” were mentioned in different articles.

Old Article 16 was move to Article 23: Plan for prevention of water pollution and restoration of polluted water sources (Chapter III Water Resource Protection).

Old Article 17 was move to Article 24: Response and restoration of water pollution incidents (Chapter III).

Old Article 18 was move to different articles in the Section 2: Exploitation and use of water resources of the Chapter IV: Exploitation and Use of Water Resources.

Old Article 19 was move to different articles in the Section 1: Effective and reasonable use of water resources of the Chapter IV: Exploitation and Use of Water Resources.

Article 20 was move to Article 49: Regulation and allocation of water resources and Article and 50: Planning for regulation and allocation of water resources in the Section 3: Regulation and allocation of water resources of the Chapter IV: Exploitation and Use of Water Resources.

Article 21 was move to Article 51: Basin water transfer in the Section 3: Regulation and allocation of water resources of the Chapter IV: Exploitation and Use of Water Resources.

Comments:

The more recent versions of the law showed a move away from enshrining IWRM in law in Vietnam as they ignored the fact that water resources need to be managed in the basin-units. Complications of managing natural resources across provincial boundaries may have dissuaded the drafting team from including the establishment of RBOs. Consequently, articles on List of river basins, River Basin Committee, River Basin Office, and State management of river basins were removed.

2. Management of International Rivers

In version 4, this was covered under Chapter IX: International Relations on Water Resources:

- Article 93. Principles in international relations on water resources.
- Article 94. Responsibility to protect Vietnam’s rights and interests regarding international water sources.
- Article 95. International cooperation in management and development of water resources.
- Article 96. Resolution of disputes over international water sources.

In version 5, this chapter remains unchanged (Chapter VII, Articles 66, 67, 68 and 69).

Comments:

In all three versions, the provisions are too general. There is no list of international rivers or reference to the incorporation of international treaties into national law.

3. Public Participation in Water Resource Management

There is an article named: Communities’ involvement in water resource management (Article 10 in version 4, and Article 6 in version 5). However, the articles only state the need for community consultation on the exploitation (version 4) and use of water resources or on water transfer between basins and sub-basins (version 5).

Comments:

The provisions for public participation are very weak.

4. KEY RECOMMENDATIONS

VRN has summarized the workshop recommendations into a paper and submitted it to DWRM. Some of the key recommendations are:

1. The new law should define the vital role of water for life and should represent major advance on the 1998 law.
2. The new law should define the IWRM approach to ensure equitable development and sustainable water use for future generations. In order to realize this approach, there is a need to define the role and responsibility and ensure the feasibility of river basin committees.
3. The new law one should allow and encourage the active participation of communities, especially affected ones, civil society organisation and other stakeholders in the decision making processes relating to water use, management, development, and protection. Greater public participation will help to ensure more effective water management, sustainable development and equity as well as transparency in water use and water exploitation. There is a critical need to have a separate chapter on this issue.

5. NEXT STEPS

The workshop and its result are absolutely not the end of the story. VRN will follow up with the drafting team and National Assembly. In line with the Following the National Assembly's agenda for law development, the water law will be reviewed and, if passed, approved by the National Assembly in May 2012. According to the National Assembly's procedures, this final draft has to be reviewed, verified and appraised by different National Assembly Committees before presentation in the plenary session. There is therefore an opportunity for VRN to convince the National Assembly to incorporate our recommendations in the final version of the law.