

**THE MINISTRY OF AGRICULTURE AND
RURAL DEVELOPMENT**

**DECISION No.132/1999/QĐ-BNN-HTQT OF
SEPTEMBER 22, 1999 ISSUING THE REGULA-
TION ON THE MANAGEMENT OF FOREIGN-
SUPPORTED PROGRAMS AND PROJECTS
UNDER THE MINISTRY OF AGRICULTURE
AND RURAL DEVELOPMENT'S RESPONSIBILITY**

**THE MINISTER OF AGRICULTURE AND
RURAL DEVELOPMENT**

Pursuant to the Government's Decree No.73/CP of November 1st, 1995 on the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the Government's Decree No.87/CP of August 5, 1997 promulgating the Regulation on the management and use of Official Development Assistance (ODA); and Decree No.52/CP of July 8, 1999 promulgating the Regulation on Investment and Construction Management;

At the proposals of the director of the International Cooperation Department and the director of the Department for Organization and Personnel,

DECIDES:

Article 1.- To issue together with this Decision

the Regulation on the management of foreign-supported programs and projects under the Ministry of Agriculture and Rural Development's responsibility.

Article 2.- This Decision takes effect 15 days after its signing. The earlier regulations of the Ministry, which are contrary to the contents of this Regulation are all now annulled.

Article 3.- The director of the Ministry's Office, the directors of the International Cooperation Department and Department for Organization and Personnel and the heads of units attached to the Ministry shall have to implement this Decision.

*Minister of
Agriculture and Rural Development*
LE HUY NGO

REGULATION ON THE MANAGEMENT OF FOREIGN-SUPPORTED PROGRAMS AND PROJECTS UNDER THE MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT'S RESPONSIBILITY

(Issued together with Decision No.132/1999/QĐ-BNN-HTQT of September 22, 1999 of the Minister of Agriculture and Rural Development)

Chapter I

GENERAL PROVISIONS

Article 1.- Foreign support sources

1. Foreign support sources subject to this Regulation include official development assistance (ODA) and other sources provided by foreign governments, international organizations, inter-governmental organizations, non-governmental organizations and foreigners (hereafter referred to as foreign party), which aim to support Vietnam's agricultural and rural development, including:

a/ Non-refundable aid;

b/ Preferential loans such as loans without interest rates but only with service charges; loans with low interest rates, or a combination of low interest rate loans with average interest rate loans, with long grace period and long term for loan capital repayment;

2. Foreign support sources may be in form of money (foreign currencies or Vietnam dong), technologies, machinery, equipment, goods, plant seedlings, animal breeds and microorganisms, specialists and training.

Article 2.- Objects of regulation

1. Subject to this Regulation shall be all programs and projects (hereafter referred to as projects) using foreign support sources, which are managed and implemented by units attached to the Ministry of Agriculture and Rural Development.

2. Foreign direct investment (FDI) projects and sources considered presents and gifts shall not be subject to this Regulation.

Article 3.- Legal basis

This management Regulation complies with the State's current regulations, including: The Government's Decree No.87/CP of August 5, 1997 on the Management and Use of Official Development Assistance (ODA); the Prime Minister's Decision No.28/1999/QĐ-TTg of February 23, 1999 promulgating the Regulation on the Management and Use of Foreign Non-Governmental Organizations' Aids; the Government's Decree No.52/1999/ND-CP of July 8, 1999 promulgating the Regulation on Investment and Construction Management, and their guiding circulars and the relevant current regulations of the ministries, branches and Ministry of Agriculture and Rural Development.

Chapter II

DETERMINATION, ELABORATION, EVALUATION, NEGOTIATION, APPROVAL AND CONCLUSION OF PROJECT DOCUMENTS

Article 4.- Determination of projects and seeking of support sources

1. On the basis of the strategic orientations and national socio-economic development plan in each period; the strategy, planning as well as short-, medium- and long-term plans of the Agriculture and Rural Development Ministry, the International Cooperation Department shall assume the prime responsibility and coordinate with the specialized departments and relevant units within and without the Ministry as well as the provincial/municipal Services of Agriculture and Rural Development and Services of Planning and Investment, in annually determining and making a list or an additional list attached with brief explanations of the priority projects

to be submitted to the Ministry or to be submitted by the Ministry to the Government for approval and seeking foreign support sources.

2. For projects which have been agreed upon and proposed by the Vietnamese and foreign parties but not yet approved by the Ministry or the Government, the Vietnamese party shall have to notify the International Cooperation Department thereof so that the latter reports them to the Ministry or the Ministry submits them to the Government for approval and addition to the list of projects seeking foreign support sources.

3. Basing itself on the contents of projects on the approved list, the International Cooperation Department shall propose the Ministry to nominate a unit to prepare or to own each project; and make external relation preparations for the Ministry's leaders, departments and units attached to the Ministry, the project preparing units and project owners, the relevant central, provincial and municipal agencies to proceed with the seeking of support sources for the projects.

4. The project preparing units or project owners shall have to promptly report to the Ministry (through the International Cooperation Department) on the situation and results of the seeking of foreign support sources for the projects.

Article 5.- Elaboration and compilation of project dossiers

1. When a donor agrees to consider support for a specific project on the list of approved projects seeking support sources, the Vietnamese and foreign parties shall have to compile the project dossier as soon as possible.

2. Depending on the donor's regulations and the current stipulations of the Vietnamese State, the International Cooperation Department shall assume the prime responsibility and coordinate with the specialized departments to guide the project preparing unit or project owner in elaborating and compiling dossier for each project. More concretely:

a/ To make a pre-feasibility study report in case the project has no pre-feasibility study report yet or already has a pre-feasibility study report but the donor still requires the study of matters they are interested in, especially for projects using loan capital.

b/ To make a feasibility study report in case both parties accept the available pre-feasibility study report or skip the pre-feasibility period.

c/ The pre-feasibility and feasibility study reports may be made by the project owner, or both parties or by a domestic or foreign consultant company hired

by the donor.

3. The principal contents of the pre-feasibility and feasibility study reports are stipulated in Articles 23 and 24, Chapter II of the Regulation issued together with Decree No.52/1999/ND-CP.

4. Where the donor does not require a pre-feasibility or feasibility-study report but only the documents or instruments of the proposed project (hereafter referred to as project documents), the project preparing unit or project owner shall have to coordinate with the donor in elaborating the project documents which satisfy the requirements of the two parties.

Article 6.- Evaluation of projects

1. All foreign-supported projects must be evaluated before they are submitted to the competent level for approval and conclusion with the supporting party.

2. Construction investment projects falling under the evaluation competence of the competent specialized State agencies and State credit institutions (for projects using credit capital) shall have to comply with the provisions of Article 26 of the Regulation issued together with Decree No.52/1999/ND-CP of July 8, 1999.

3. The Investment and Capital Construction Department shall assume the prime responsibility in evaluating all construction investment projects, their technical designs and total construction cost estimates. The Plan and Planning Department shall assume the prime responsibility in evaluating investment projects on plant and animal development. The Department for Science, Technology and Product Quality shall assume the prime responsibility in evaluating scientific and technological cooperation and development projects. The International Cooperation Department shall assume the prime responsibility in evaluating projects on institutional structure, policies, administrative reform, international economic integration and development of human sources.

4. Contents of evaluation:

a/ The contents of evaluation of construction investment projects shall comply with Article 27 of the Regulation issued together with Decree No.52/1999/ND-CP.

b/ For contents of evaluation of projects other than those defined in the Regulation issued together with Decree No.52/1999/ND-CP, it is necessary to clarify the necessity of the projects, their feasibility, objectives as well as socio-economic, security and environmental efficiency.

5. Evaluation time: The evaluation time-limit for a construction investment project shall be counted

from the date of receipt of a full and valid dossier, as follows:

a/ For group-A projects: It shall not exceed 60 days.

b/ For group- B projects: It shall not exceed 30 days.

c/ For group-C projects: It shall not exceed 20 days.

d/ For projects other than those of above-mentioned three groups: It shall not exceed 20 days.

Article 7.- Fund for elaboration and evaluation of projects

The fund for elaboration and evaluation of investment projects shall comply with Article 32 of the Regulation issued together with Decree No.52/1999/ND-CP. For other projects, this fund shall be taken from foreign support sources or the State budget, which have already been arranged for the projects or from lawful funds of the project preparing units or project owners.

Article 8.- Negotiation, approval and conclusion of project documents

1. The negotiation between the Vietnamese party and foreign party shall commence from the initial contact to determine the project and support sources till the conclusion of the project documents.

2. On the basis of the feasibility study report or project documents already evaluated by the concerned parties, the International Cooperation Department shall assume the prime responsibility and coordinate with the specialized departments and the project owner in negotiating and preparing documents to be submitted to the Minister or the Prime Minister for approval and conclusion with the supporting party.

The necessary documents to be submitted for approval and conclusion shall include one of the following: agreement or accord, protocol, memorandum of understanding, arrangement, minutes or contract together with the feasibility study report or project documents, letter of authorization (where the signatory is authorized by his/her superior).

3. The competence to approve ODA-funded projects is defined in Decree No.87/CP as follows:

3.1. The Prime Minister shall approve:

a/ The annual list of ODA-funded projects, including the amendments and/or supplements thereto.

b/ The credit projects using ODA capital.

c/ The projects using non-refundable ODA capital, which are capitalized at 500,000 USD or more.

d/ The ODA-funded projects related to the institutional structure, policies, law, culture and

information or national defense and security (irrespective of their capital size).

e/ The ODA-funded projects with total investment capital equivalent to that of group-A projects as defined in the Regulation issued together with Decree No.52/1999/ND-CP.

3.2. On the basis of the annual list of ODA-funded projects, including the relevant amendments and/or supplements thereto already ratified by the Prime Minister, the Minister of Agriculture and Rural Development shall approve the following types of project:

a/ The ODA-funded investment projects with total investment capital equivalent to that of group-A projects as defined in the Regulation issued together with Decree No.52/1999/ND-CP.

b/ The projects using non-refundable ODA capital which are capitalized at under 500,000 USD. For projects valued at under 10,000 USD, the project owners shall decide the conclusion and report such to the International Cooperation Department so that the latter shall help the Ministry to supervise the implementation.

4. After a project has been approved by the competent level, the International Cooperation Department shall notify the foreign party of the approval results, and assume the prime responsibility, together with the concerned departments, in guiding the project owner to prepare for the final negotiation, completion of the contents and procedures and conclusion of the project documents or international agreements.

5. In the course of negotiation, if there's any change to the project documents already approved by the competent level, the head of the negotiation delegation shall have to report it to and consult with the Ministry's leaders as well as the level competent to approve the project.

6. For projects under the management of the Ministry of Agriculture and Rural Development, the heads of the negotiation delegations shall, as soon as possible after the completion of the negotiation process, send written reports to the Minister on the negotiation results and contents of documents which have been agreed upon for conclusion with the foreign party(ies). On this basis, the International Cooperation Department shall prepare documents to be approved by the Ministry or to be submitted by the Ministry to the competent level for approval and preparation for the subsequent steps.

Article 9.- Competence and levels for conclusion

I. The negotiation and conclusion of international agreements must be authorized by the State President

(for international agreements concluded in the name of the State), the Government (for international agreements concluded in the name of the Government) or the Minister (for international agreements concluded in the name of the Ministry).

2. The heads of the delegations for negotiation and conclusion of international agreements in the name of the Ministry must be authorized by the Minister in conformity with the characteristics and importance of the international agreements as well as the status of the foreign party's person competent for negotiation and conclusion.

Article 10.- Management of the concluded documents, exchange of materials and specimens

1. Documents concluded by the Ministry under the Government's authorization shall be kept at the Ministry for Foreign Affairs.

2. Other concluded documents shall be managed as follows:

- The originals shall be kept at the Ministry's Office.
- The copies shall be kept at the International Cooperation Department and the relevant units.

3. The keeping, access to, exchange and/or supply of information, dossiers, materials and specimens with foreign party shall comply with the current stipulations of the State and the Ministry of Agriculture and Rural Development.

Chapter III

ORGANIZATION AND MANAGEMENT OF IMPLEMENTATION

Article 11.- The Ministry of Agriculture and Rural Development shall exercise the unified State management over ODA and other foreign support sources in the field of agriculture and rural development, which shall be reflected in the following aspects:

1. On the basis of the strategic orientations and short-, medium- and long-term plans of the Agriculture and Rural Development Ministry, the foreign cooperation projects shall be identified, elaborated and arranged according to a priority order so as to mobilize international assistance and cooperation.

2. The State management capability of the departments and relevant specialized agencies under the Ministry regarding foreign-supported projects shall be enhanced.

Article 12.- Project implementation management responsibility of the specialized departments under the Ministry

1. The International Cooperation Department shall assist the Minister in synthesizing all foreign-supported projects, assume the prime responsibility and coordinate with the concerned departments and units in organizing the implementation of various steps from determination and seeking of support sources till the conclusion of project documents or international agreements; assume the prime responsibility in organizing the management of implementation of projects on institutional structure, policies, administrative reform, international economic integration and development of human resources; supervise and urge the project owners to strictly comply with their commitments, monitor and synthesize the situation of the Ministry's international cooperation projects so as to submit biannual reports thereon to the Ministry's leadership or submit extraordinary reports at the Ministry's request.

The list, documents and necessary information on foreign-supported projects under the Ministry's responsibility must be collected via the general management channel of the International Cooperation Department before they are submitted to the Ministry or competent levels for ratification, handling or sending to the foreign party(ies), aimed at ensuring the Ministry's unified management, avoiding the overlapping, missing, delay, wastefulness, scatteredness, loopholes or unsafety.

2. The Plan and Planning Department shall assume the prime responsibility and coordinate with the International Cooperation Department as well as the relevant departments in organizing the management of the implementation of investment and development projects as well as construction investment projects which fall under the Ministry's management responsibility; coordinate with the International Cooperation Department in preparing legal documents on investment and development projects to be submitted to the competent levels for ratification; synthesize the reciprocal capital and foreign capital plans according to the time schedules of all projects under the Ministry's management in order to make balances based on the annual investment plan and provide implementation guidance to project owners.

3. The Department for Science, Technology and Product Quality shall assume the prime responsibility and coordinate with the International Cooperation Department and the concerned departments in organizing the management of implementation of projects on scientific, technological and environmental research and development cooperation, which fall under

the Ministry's management responsibility, including guidance on project elaboration, organization of evaluation of project contents before they are submitted to the competent levels for approval; inspecting and evaluating the realization of contents of the projects; considering and filling in procedures on the exchange of specimens (of plants, animals, microorganisms...), technologies as well as scientific and environmental documents on agriculture and rural development with foreign party(ies).

The exchange of wild animals and plants shall be conducted by the Ranger Department according to the current stipulations of the State, the Ministry of Agriculture and Rural Development, and Vietnam's international commitments.

4. The Department for Organization and Personnel shall have to coordinate with the International Cooperation Department in arranging personnel and proposing the Ministry to set up the project administration boards and appoint directors as well as members to the management boards of the specialized projects (agricultural, forestial, irrigation) and offices of foreign-supported projects; guide the specialized project management boards to elaborate organization and operation regulations as well as supervise and inspect the implementation thereof; oversee the operation, inspect, detect and propose solutions to settle arising problems concerning the apparatus and personnel of the projects.

5. The Finance-Accountancy Department shall assist the Minister in financial management and propose supplements to the Regulation on financial management as well as quotas and norms for foreign-supported projects, which are carried out by the units attached to the Ministry.

Basing itself on the current regulations on domestic financial management and provisions of agreements or project documents, the Finance-Accountancy Department shall guide the project management boards and project offices to elaborate financial plans, capital disbursement plans, accounting regime and financial statements to be submitted to the Ministry and the Finance Ministry in conformity with the ratified contents and schedules; conduct regular and irregular accounting inspections of the project management boards and project offices by evaluating and approving the projects' annual final account settlement reports; upon the completion of the projects, control the hand-over of project properties to different units for management and use according to the current financial management regime.

6. The Investment and Capital Construction Department shall, after evaluating construction investment projects, coordinate with the International Cooperation Department and the functional

departments in evaluating the project's technical designs and total construction cost estimates; guiding and inspecting the project owners in carrying out the construction, bidding, procurement of supplies and equipment, construction and installation in strict compliance with the current stipulations of the State, with the guidances of the Ministry of Agriculture and Rural Development as well as the other ministries and at the same time in accordance with international practices.

Article 13.- Project apparatus and personnel

1. Project administration board: Depending on the requirements of a number of projects, the project administration board shall be set up by decision of the Minister of Agriculture and Rural Development, which shall be headed by a Vice Minister to perform a unified task of mobilizing and regulating the ministries' and branches' participation in the project management under the Prime Minister's authorization; to assist the Minister of Agriculture and Rural Development in administering the project implementation plan according to the project documents already ratified by the competent level. The project administration board is composed of representatives of the ministries, the relevant central-level or provincial/municipal-level agencies. The tasks of the administration board is stated in its establishment decision, which is mainly to make considerations and advise the Ministry on approving matters related to policies, organizations, operation plan and periodical (biannual and annual) budget of the projects, which are submitted by the project managers; and conduct periodical inspection, make preliminary review and final review of the projects, ensuring the successful fulfillment of the objectives defined in the project documents.

2. The agricultural project management board, the forestial project management board and the irrigation project management board shall operate according to their functions and tasks defined in the Minister of Agriculture and Rural Development's decision for each board. These boards are non-business economic units tasked to directly manage and direct the implementation of the specific projects assigned by the Ministry and observe this Regulation like the project owners.

Depending on each project, the Department for Organization and Personnel shall assume the prime responsibility and coordinate with the relevant departments and project management boards in elaborating operation regulations of the project administration boards to be submitted to the Ministry for approval and promulgation for implementation.

3. Project offices: A project office is tasked to run

the project's daily work and composed of a manager, coordinator(s), accountant(s) and staff, who are considered and decided by the Ministry at the proposal of the Department for Organization and Personnel and the project owner.

The project manager shall have the responsibility, together with the members of the project office to coordinate with the project specialists (if any) in administrating the activities of the project, including:

a/ Elaborating the operation plan and budget (monthly, quarterly, biannual and annual) of the project and submitting them to the project management board or project administration board (if any), and to the concerned specialized departments for ratification and implementation.

b/ Elaborating plans and preparing procedures for the withdrawal of reciprocal capital from the State budget as well as the foreign capital according to the schedules stated in the project documents.

c/ Observing the financial, statistical, accounting as well as inspection and examination regimes according to the current regulations of the State; submitting regular reports (according to the stipulations of the ratified project documents) and irregular reports (when requested) to the Ministry (the Plan and Planning Department, the Investment and Capital Construction Department, the Finance-Accountancy Department and the International Cooperation Department) according to the forms set by the Ministry of Agriculture and Rural Development, the relevant ministries and at the request of the foreign party concerning the financial reports and audit.

d/ Selecting domestic and international specialists according to the function and task plan, providing material conditions and personnel for cooperation in carrying out the work as scheduled.

e/ Organizing bids for the selection of equipment, construction and installation materials and services for the project in accordance with the current regulations of the State and the donor.

f/ Organizing forces, means and books to supervise and urge the operations and implementation of parts of the project.

g/ Managing activities of the project specialists.

h/ Coordinating with the International Cooperation Department, the specialized departments and representatives of the donor in organizing the preliminary and final reviews; appraising the periodical tempo and completion of the project in accordance with the provisions of the project documents; and reporting thereon to the Ministry, the relevant departments and donor.

Article 14.- Preliminary review, final review,

appraisal and report on project implementation results

The International Cooperation Department and the relevant departments shall guide the project managers to coordinate with the foreign party(ies) in organizing the preliminary reviews, final reviews, appraisal and making of reports to the Ministry (through the International Cooperation Department) on the operation situation of the projects as stipulated in the project documents or drawing experiences on the project management on the biannual and annual basis, suggesting or proposing matters to be adjusted, supplemented or amended regarding the project documents, organizing the implementation and completion of the projects.

The International Cooperation Department shall sum up the situation and results of the use of foreign support sources and make biannual and annual reports thereon to the Ministry's leadership.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 15.- Implementation effect

The heads of the units attached to the Ministry, the heads of the project administration boards, the managers of the agricultural, forestrial and irrigation project management boards and offices of foreign-supported projects shall have to implement this Regulation.

In the course of implementation, if any amendments and/or supplements are required, they must be promptly reported to the Ministry (the International Cooperation Department) for consideration and handling.

*Minister of
Agriculture and Rural Development*
LE HUY NGO