

**Country Paper: Water Allocation and Water Right situation of Lao PDR  
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## **1. Country Overview**

The People's Supreme Assembly, which was consequently, renamed the National Assembly, promulgated the first constitution of Lao PDR on 15<sup>th</sup> August 1991. The Constitution proclaims Lao PDR as a people's democratic state in which: "all powers are of the people, by the people and for the interests of the multiethnic people of all strata in society, with workers, farmers, and intellectuals as key components"

The Constitution provides a legal framework for:

- The political regime
- The socio-economic system
- The fundamental rights and obligations of Lao citizens
- The government, local administration and the judicial system

Any amendments to the Constitution must be made by the National Assembly and requires a two-thirds majority vote to be passed. The Constitution has strengthened the administrative role of state institutions and widened the deliberative powers of the National Assembly. For example, it defines the rights and duties of the National Assembly including its powers to elect the President and adopt laws. The Constitution has strengthened the administrative role of the state organs in the country and has certainly widened the powers of the unicameral National Assembly to deliberate on appointments, law, policy and development plans.

## **2. Law and Legislation**

The Water and Water Resource Law was passed by the National Assembly in November 1996 and became effective in March 1997, it recognizes that the 'national community' owns the water of the country through the management of the state, which reasonably allocates the use of the water. It also provides for developers of water to contribute funds for the maintenance of the origins of water and water resources.

It sets out the Principles, rules, and measures relative to the administration, exploitation, use and development of water and water resources in the Lao PDR to preserve sustainable water and water resources and to ensure its quantity and quality providing for people 's living requirements, promoting agriculture, forestry, and industry, developing the national socio-economy and ensuring that no damage is caused to the environment.

The Water and Water Resource Law consists 10 chapters and its framework identifies the range of issues which need to be addressed:

## **Chapter II: Surveying, Listing, and Determination of Water Source types and Reservoirs.**

### **The Article 11 Water source and Catchments Allocation**

In allocating water sources and catchments. Reference shall be made to surveying and data collection in order to determine effective division, administration, and use of water and water resources.

### **Article 12 Determination of water and water Resources Allocation**

To ensure that water and water resources existing in Lao PDR are used thoroughly and according to plan, the Government shall determine the distribution of water and water resources.

## **Chapter III: Water and Water Resource Use**

### **Article 14 Right to Use Water and Water Resources**

Individuals, juristic entities or organization have the right to use water and water resources at the level of family use or in business operations.

The right to water and water resources exists at three levels, such as:

- Small scale
- Medium scale
- Large scale

The right to use water and water resources must be pursuant to the water sources allocation plan.

**The Decree to implement the Law on Water and Water Resources No. 204** promulgated by the Prime Minister's Office on 9/10/2001, To establish the responsibilities of different ministries, agencies and local authorities with regard to the management, exploitation, development and use of water and water resources. The Decree shall also ensure efficient development and use, conformity with the socio-economic development planning, an increase in production, an improvement of the living conditions of the people and sustainable use of water resources.

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## **Chapter II: Survey, Inventory and Classification of Water Sources and River Basins**

### **Article 9 Water Sources and River Basin Allocation**

▪ The WRCC and the LNMC, through coordination with the line agencies and local authorities, shall be responsible for preparing River Basin Plans (RBP) and Water Resource Management Plans (WRMP). The WRCC shall submit these plans to the GOL for consideration and approval.

▪ The RBP and WRMP must be in harmony with the National Socio-economic Plan and the Land and Forest Use Management Plans.

▪ The relevant ministries shall manage water distribution plans within their ministries to meet the requirements of the approved RBP and WRMP.

### Chapter III: The Use of Water and Water Resources

#### Article 12: The Licensing of Water Use and Water Resources Development Activities

- The relevant ministries shall issue regulations on the licensing medium scale water use and water resource development activities within their sectors. Local authorities shall be involved in licensing medium scale water use. The Government must approve medium scale water use that is important.
- Individuals and organisations that wishing to undertake large-scale water use and water resource development activities shall apply to the relevant ministries to gain the approval of the GOL. The application for large-scale water use must be accompanied by a feasibility study and environmental impact studies.
- The relevant ministries shall be prepared guidelines on the preparation of feasibility studies, and environmental impact studies in accordance with Article 8 of the Environmental Law.
- The ministries, the WRCC, LNMC and local authorities shall monitor and control development of water resources and water use and report to the Government on a regular basis.

Beside, there are number regulations issued by ministers concern

Enactment	Dates	Responsible Agencies
Prime Ministerial Decree on Protected Areas (164/PM)	17 Mar 1997	Agriculture and Forestry
Prime Ministerial Decree on Management of Livestock and Fisheries (85/PM)	31 May 1993	Agriculture and Forestry
Ministerial Decree for Water User Associations (1056/MAF)	29 Oct 1993	Agriculture and Forestry
Ministerial Decree on effluent discharge (180/MOI)	3 Nov 1994	Industry and Handicraft
Ministerial Decree on effluent discharge (1122/STENO)	11 Mar 1998	STEA
Agreement for Cooperation on the Sustainable Development of the Mekong River Basin	5 April 1995	Lao National Mekong Committee
Prime Minister's Office Notice (1335/PMO)	12 Aug 1997	STEA
Prime Minister's Office Notice (076/PMO)	8 April 1998	STEA
Science Technology Environmental Organization Notice (91/STENO)	27 April 1998	STEA
Various other ministerial decrees now redundant following adoption of Water and Water Resources Law	Various	Respective Ministries and Departments

### 3. Criticize: status water allocation and right in Laos.

#### Water Allocation and Conflict Resolution

While the Water Law sets out broad relative priorities for water use, there is as yet no process for resolving water use conflicts. The establishment of the WRCC may provide such a mechanism.

There has been no work yet undertaken to define the environmentally sustainable limits either to water allocation and use or to licensed wastewater discharge.

### **Property Rights and Tenure**

Water and water resources are the property of the National Community. The State represents the community and manages and allocates the use of these resources. Apart from some small uses as provided in the Law, water use must be licensed. The rules applying to these licenses may allow transfer or inheritance if the government so permits.

Enforcement of the law in relation to water is not yet occurring and there is no measurement of the amount of water used.

The only water use licenses granted to this date are to hydropower BOT schemes. The water rights are granted to these for a specified number of years on a case by case basis. There is no process for review of rights once granted. All other uses are presently unlicensed, but have generally been given some form of approval by government through the development process.

There is no formal licensing of wastewater discharges but before approval of new industry, and during its operation.

The Law on Land (1997) similarly sets out the provisions for land. Land resources are also the property of the National Community. Individuals or organisations that are granted the right to use the land cannot make commercial transactions on the basis of that right but again the right of use may be allowed to be transferred or inherited. As with water, existing uses have a tacit form of approval.

### **The problem and issue on water allocations**

The current institutional problem in the water sector mainly relates to lack of co-ordination between agencies within the sector and with those of other sectors, and loose line of communication and co-ordination between the national agencies and their provincial counterparts. The Water Resources Co-ordination Committee being established as a national apex body is mainly aimed at improving the co-ordination of multi-sectoral activities involving various water uses and also defining and managing water allocations. This is an important initiative for co-ordination at the national level enabling the Government to overcome the current fragmented management of water resources.

## **4. Prioritizing Water Allocation and Water Right in Lao PDR**

The Water and Water Resources Law of 1996, sets out a legal framework for development in the Water Sector. Many issues in the Law, particularly the roles and responsibilities of various agencies for specific activities such as water allocation and the process for licensing water users, need to be developed. There is an urgent need for the development of further legislation or decrees for sub-sectoral activities, as well as the necessary legal documents to accompany the Law and make it effectively. Support to the Lao Government in this area should be undertaken in a counterpart relationship with the Department of Legislation within the Ministry of Justice as this agency has the final responsibility in issuing decrees.

External assistance is also required in water sub-sector agencies to develop regulations. A pre-requisite for success in this field is the capacity building throughout

the Water Sector because this is a new activity for the water sector which traditionally focuses on development rather than management and regulation.

## **5. Conclusion**

While the Water and Water Resources Law sets out broad relative priorities for water use, there is as yet no process for resolving water use conflicts. The establishment of the WRCC may provide such a mechanism. There has been no work yet undertaken to define the environmentally sustainable limits to either water allocation or use, or to licensed wastewater discharge.

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