

# **SOME CONTENTS NEED FINANCIAL ASSISTANCE FOR EFFECTIVE IMPLEMENTATION OF THE LAW AND ORDINANCE DEVELOPMENT PROGRAM IN THE AGRICULTURE AND RURAL DEVELOPMENT SECTOR**

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## **I. The necessity to develop and improve law and ordinance system in the agricultural sector**

Vietnam is a country with relatively high agricultural GDP in the total GDP. Agricultural production takes place in a huge rural area accounting for 80% of the total land area and attracts 70% of the population and depends much on natural conditions and directly affects the environment. Agricultural production includes cultivation, husbandry, forest protection and exploitation, irrigation, aquaculture, salt production and many other activities, which concerns usages of natural resources such as land, water and forests, aquatic resources and abundant agricultural labor force, etc. Productivity, quality and effectiveness of agricultural production has a close link with development of primary infrastructure system in service of production and lives of rural habitants such as dyke system, irrigational works, rural transportation as well as animal health services, credits, seedlings, agricultural inputs and product consumption, etc.

In order to adjust and control social relations in agricultural production activities and some concerned fields, there is a system of existing legal documents in the agricultural sector which are issued by many competent agencies at both central and local level and most of them are under-law documents. These documents can only specify issues within the authority of the issuing agency. Guarantee of policy implementation in reality, however, concerns the overall system of State agencies including State supreme power organ - National Assembly. According to the existing Constitution, National Assembly has the power to decide important issues of the country based on the Constitution and Acts, which are issued by the Assembly. Most of the issues, which are under decisive authority of the National Assembly have direct or indirect impact on implementation of agricultural policies. Recent practices show that some guidelines and policies, which have been set for the agricultural sector, are huge issues **and bypass the regulatory authority of the Government** such as policies for rural and mountainous areas, State budge allocation for agricultural investment, agricultural inputs management in order to ensure agricultural outputs and environment protection, etc. Up to now, the Assembly and its Standing Committee have issued some legal documents to adjust some fields which are directly relevant to agricultural production including Law on water resource, Law on forest protection and development, Dyke ordinance, Ordinance on flooding and storm control and prevention, Ordinance on exploitation and protection of irrigational works, Ordinance on animal health, Seedling ordinance; Breeding animal ordinance. However, there are some fields in the agricultural sector

without legal documents issued by the Assembly and its Standing Committee to adjust. On the other hand, in the context of international economic integration and strong development of agricultural production technology, some promulgated ordinances expose certain limitations.

Agro-economic renovation guideline in an orientation of accessing world markets and creating favorable conditions for development of private economic sector to promote growth is being implemented. In parallel with this guideline implementation, the necessity to renovate and improve the law system in agricultural sector is clearly seen. As a result, making research and developing some laws and ordinances to adjust a number of fields in the agricultural sector and at the same time amending, supplementing and upgrading some existing ordinances to become laws to suit new situation is an urgent task of the Ministry of Agriculture and Rural Development.

## **II. The tentative law and ordinance development program of the Ministry of Agriculture and Rural Development to 2010.**

Development and improvement of law and policy system in the agricultural sector to reflect practical requirements is one of important solutions to create new momentum in order to promote comprehensive development or goods-oriented agriculture, which links with open market for international economic integration. Consequently, from 2002 up to now, the Ministry of Agriculture and Rural Development have submitted to the Prime Minister the development of some laws and ordinances for the agricultural sector, proposals on amendment, supplementation and upgradation of some existing ordinances and at the same time been active in researching scientific and practical foundation for consecutive proposals on development and improvement of agricultural law system. Particularly, tentative law and ordinance development program to 2010 and its implementation are as follow:

**1. Dyke law:** has been approved by the National Assembly and put into the preparatory program since 2004. Presently, Drafting Committee and Editing Task Force have been established.

### **Necessity for development of Dyke law:**

The contents of the existing Dyke ordinance define management of works, houses and buildings in dyke protection scope on river shore and river-bed to ensure flooding drainage and safety for dykes. However, in reality, the number of works and houses on river shores is huge, in which many works and houses are old and need to repaired and upgraded and the need to exploit and use land areas on river shores to build socio-economic development works, especially in Hanoi and some other urban areas is increasing. If flooding drainage plan is implemented in collaboration with applying advanced science and technology to plan residential areas by building multi-story buildings for spaciousness of river shores, both flooding drainage and harmonization with socio-economic development will be ensured. However, regulations of the existing ordinance

does not allow new construction or enlarging existing works and houses in dyke protection scope. Thus, this ordinance needs to be amended, supplemented and upgraded.

**2. Law on agriculture and rural areas:** in 2004, Legal Department of the Ministry of Agriculture and Rural Development implemented a research on theoretical and practical foundation to prepare for development of Agricultural Law. Based on the findings of this research, in 2005 the Ministry of Agriculture and Rural Development will propose the National Assembly to assemble this in the Law development preparation program in 2006.

### **Necessity for development of the Law on agriculture and rural areas.**

Agricultural production activities take place in a huge rural area with poor economic, technical and social infrastructure and can cause positive or extremely negative impacts on environmental factors such as air, land, forests, surface water, underground water and the sea. This impact effects not only changes in quantity but also quality of air, water and environment, etc. The environmental issues are not of a country alone but affect other countries in the region and the world. Some agricultural production activities are adjusted by legal documents at different levels but they are of specialized nature without coordination and combination. Many agricultural production activities have relations with activities of other sectors and take place in the same rural area but they are not planned and combined in a system and do not focus on serving production development, improving farmer living standard, protecting ecological environment to reach the goal of sustainable development. As a result, despite many legal documents specifying different fields of agricultural production activities and rural development, there is a need for developing a comprehensive agricultural law to adjust arising relations between individual agricultural production activities and rural development such as relations between land using and agro-forestry, aquatic and salt production, environment protection, developing new production relations in rural areas and developing rural infrastructure, etc. Adjustment of these relations will make agricultural production and rural development more harmonized and sustained and step-by-step will adjust agricultural production and rural economic structure as well as improve material and cultural living standard in rural areas.

**3. Ordinance on animal foods and Salt ordinance:** in 2003, the Ministry of Agriculture and Rural Development submitted to the Government the development of these two ordinances and it is expected that the development of these two ordinances will be proposed to put into Law development program of the Assembly Standing Committee.

### **Necessity for development of the Ordinance on animal foods**

In the trend of international and regional economic integration, industrial husbandry is becoming more and more developed and the need of importing animal foods in service of industrial husbandry is getting higher and higher,

Vietnam needs higher legal regulations on animal foods to suit international and regional standards and international treaties which Vietnam have signed and will sign in order to ensure foods and environment hygiene and safety and effective mobilization of social resources into production, trading, import and export of animal foods to create conditions for industry-oriented animal food development.

### **Necessity for development of Salt ordinance**

Salt as well as salty and after-salt products are necessary commodities for people living and important materials for industrial production, especially chemical industry. Vietnam is a country of great potential for salt production; however, development of salt industry is not corresponding to the potential and available advantages of the country. Low production effectiveness and difficult lives of salt-dependent people are causing pressure to break the plan and sustainability in salt production and supply. Therefore, there is a need for regulations under the authority of the Assembly Standing Committee on production, processing, storage and circulation of salt to create legal corridor for sustainable development of salt industry.

#### **4. Some laws and ordinances are expected to be put into the Law development program by the Assembly Standing Committee:**

- Law on Animal Health: upgrading Ordinance on Animal Health into law;
- Ordinance on exploitation and protection of irrigational works: amending and supplementing the existing Ordinance on exploitation and protection of irrigational works to suit the new situation;
- Ordinance on fertilizers: developing this ordinance to adjust the effective management and use of fertilizers in agricultural production.

### **III. Difficulties and challenges in implementation process of Law and ordinance development program of the Ministry of Agriculture and Rural Development to 2010**

#### ***1. Difficulties and challenges***

Law and ordinance development process requires strict observation of regulations in the Law on issuance of legal documents including studying scientific foundation and experiences in law development of other countries in order to defining methodology, scope and subjects need to be adjusted; surveying, analyzing and evaluating practical situation to define legal relations need to be adjusted; drafting and approving the document. Legal document development process is issued in order to effectively mobilize resources for law development. However, due to limited State budget allocation for law development, law and ordinance development of the Ministry of Agriculture and Rural Development to 2010 faces with so many difficulties and challenges:

- Civil servants are not basically trained on law development and analytical and evaluation skills and lack experiences in law development;

- Owing to lacking budget to carry out survey, analysis and evaluation of practical situation and subjects need to adjusted, law and ordinance development is of subjective and voluntary nature;
- During the preparatory process for legal document development, there has been active initiative to establish Drafting Committee and Editing Task Force. These organizations, however, are facing with lack of budget for effective operation.
- Lacking technical support from national and international experts in law development due to lacking financial resource for paying them.

#### **IV. Proposed contents need support in legal works and implementation of Law and ordinance development program of the Ministry of Agriculture and Rural Development to 2010.**

The Ministry of Agriculture and Rural Development has prepared Law and ordinance development program to 2010, however with the remained difficulties, implementation of this Program in an effective manner are big challenges. Therefore, it would need support both in terms of technical financial assistance as well as experience sharing from domestic and international donor community. As an advisory body for the Minister of Agriculture and Rural Development in the field of law and policy development for the agricultural sector, Legal Department kindly appeal to the domestic and international donor community for supporting resources for implementation of the following contents:

**1. Supporting legal works of the Ministry:** creating opportunities and national and international forum for the Ministry of Agriculture and Rural Development to be able to introduce the ministerial Law and ordinance development program with an aim to attract international projects, resources of foreign countries and international organizations to invest in law development works as well as upgrading and training legal civil servants abroad.

**2. Supporting Law and ordinance development program to 2010 of the Ministry:**

*a. Developing Law on agriculture and rural areas*

- Financing study expenditures: carrying out a general study on law on agriculture and rural areas of foreign countries with an aim to propose contents need to be applied in development of Vietnam agricultural law.
- Financing expenditures to survey and collect national data on subjects to be adjusted as well as study tours to learn about experiences on agricultural law development experiences of some counties.
- Financing payments for experts to carry out data analysis and evaluation of current situation of legal relations need to be adjusted.

*b. Upgrading Dyke ordinance and Ordinance on Animal Health into law:*

- Financing expenditures to evaluate impacts of Dyke ordinance and Ordinance on Animal Health during the past time as well as to survey and collect national data on subjects to be adjusted and create conditions for study tours to learn about experiences on agricultural law development experiences of some counties.
- Financing payments for experts to carry out data analysis and evaluation of current situation of legal relations need to be adjusted.

***c. Developing Ordinance on Animal Foods, Salt Ordinance and Fertilizer Ordinance:***

- Financing expenditures to survey and collect national data on subjects to be adjusted as well as study tours to learn about experiences on agricultural law development experiences of some counties.
- Financing payments for experts to carry out data analysis and evaluation of current situation of legal relations need to be adjusted.

***d. Amending and supplementing Ordinance on exploitation and protection of irrigational works***

- Financing expenditures to evaluate impacts of the Ordinance in the past time to clarify if the contents of the Ordinance is suitable with the practical situation or not; Financing expenditures to survey and collect national data on subjects to be adjusted as well as study tours to learn about experiences on agricultural law development experiences of some counties.
- Financing payments for experts to carry out data analysis and evaluation of current situation of legal relations need to be adjusted.