

**GUIDELINES FOR THE IMPLEMENTATION OF THE REGULATIONS ON THE
OPERATION OF FOREIGN NON-GOVERNMENTAL ORGANIZATIONS IN VIET NAM**

Following Decision No. 340/TTg, dated 24 May 1996, of the Prime Minister on the issuance of the Regulations on the Operation of Foreign Non-governmental Organizations in Vietnam;

Following Decision No. 339/TTg dated 24 May, 1996 of the Prime Minister on the establishment of the Committee for Non-governmental Organization Affairs;

The Committee for Non-governmental Organization Affairs (hereinafter referred to as the Committee) hereby addresses the guidelines for implementation of the Regulations on the Operation of Foreign Non-governmental Organizations in Vietnam as follows:

I - GENERAL PRINCIPLES:

1 - Foreign non-governmental organizations (NGOs) stated in Article 1 of the Regulations refer to non-governmental organizations, foundations, institutes, universities, learning centres, trusts, friendship associations established in countries other than Vietnam (including foreign individuals and Vietnamese overseas) coming to Vietnam in the aim to conduct development, humanitarian activities without profit-making purposes or others, shall have to get permission for operation according to the Regulations.

2 - Types of Permits:

a) Permit for Operation: Permit for Operation is the recognition and permission given to NGOs to legally conduct appraisals, financing and implementation planning for development, humanitarian programs, projects in Vietnam or to implement development, humanitarian programs, projects through Vietnamese partners.

b) Permit for the Establishment of Project Office: Permit for Project Office is the technical and regular work station of an NGO or a Representative Office with programs, projects in remote areas with difficult and costly access to transportation; bearing the responsibility to manage one or several specific program(s), project(s) in the locality or region.

Project Office shall be based in program/project area, or in a locality which avails itself of favourable conditions for the supervision of programs, projects upon the approval of that local authority.

c) Permit for the Establishment of Representative Office: Permit for Representative Office is the official recognition to the regular presence and representation of one NGO covering all its action plans in Vietnam.

Representative Office of NGOs shall be based in Hanoi.

3 - The competent authority for the issuance, extension, amendment and withdrawal of Permits shall be the Committee for Non-Governmental Organization Affairs. The standing agency for foreign non-governmental organization affairs of the Committee shall be the Vietnam Union of Friendship Organizations (hereinafter called the Union). The People's Aid Coordinating Committee (hereinafter called PACCOM) of the Union has been appointed to be the focal point for foreign NGOs and functional bodies of ministries, central agencies and

People's Committees of provinces and centrally-administered cities, addressing all issues relating to foreign NGOs' activities in Vietnam under the leadership of the Committee and the Union. All information concerning NGO activities in Vietnam shall be consulted with the People's Aid Coordinating Committee at 105A Quan Thanh, Hanoi, Vietnam; Tel: (84-4) 8436936/8436937; Fax: (84-4) 8452007; E-mail: Paccom@netnam.org.vn.

II - CONDITIONS FOR THE CONSIDERATION AND ISSUANCE OF PERMITS AND PROCEDURES FOR APPLICATION, EXTENSION, AMENDMENT AND WITHDRAWAL OF PERMITS:

1 - The competent authority stated in point 3, Clause a, Article 6 of the Regulations refers to the agency that is responsible for legal procedures for the operation registration or permission for operation in its country or where its headquarters are based.

Apart from the conditions stated in Article 3 of the Regulations, NGOs with effective on-going programs, projects shall be given priority in the consideration of issuing Permit for the Establishment of Project Office.

2 - The number of Vietnamese and foreign staff needed for the operation of Project Office and Representative Office stated in Articles 6 and 7 of the Regulations refers to the number of program officers, staff who will work on a regular basis at the Project Office or Representative Office within the valid period of the Permit.

3 - Chief of Representative Office, Project Office and the persons authorized by NGOs stated in Articles 6, 7 and 14 of the Regulations shall be introduced by the leaders of the NGOs in writing to be considered and accepted by the Committee.

4 - The location of Project Office stated in the application for Project Office shall be on the basis of provinces, centrally administered cities. Project Office shall be based in a provincial or a district capital that avails itself of favourable conditions for the supervision of programs, projects after having been agreed upon by the provincial authority.

5 - The competent authorities for the approval of programs, projects stated in Article 7 of the Regulations shall, for the time being, be addressed in accordance with Decision 80/CT dated 28th March, 1991¹ of the Chairman of the Ministers' Council (now being the Prime Minister) and delegated as follows:

- Programs, projects of under 50,000 United States dollars (USD) are to be considered and decided by Ministers or Chairs of People's Committees of provinces, centrally-administered cities.

- Programs, projects of from 50,000 USD to 200,000 USD are to be considered and approved by the Ministry of Finance (given proper consultation with the Vietnam Union of Friendship Organizations).

- Programs, projects of over 200,000 USD are to be considered and approved by the Chairman of the Ministers' Council (now being the Prime Minister) upon the recommendations after mutual consultation by and between the Ministry of Finance, State Planning Committee (now being the Ministry of Planning and Investment) and the Vietnam Union of Friendship Organizations.

Project partners under line agencies and localities (for programs, projects of under 50,000 USD) and project holder agencies (for programs, projects of over 50,000 USD) bear the responsibility to complete all procedures relating to the presentation for approval of projects/programs according to the above-mentioned delegation, as well as be accountable for the use of the funded capital and management of programs, projects.

6 - The Committee shall inform concerned NGOs of the results of applications according to the time frames stipulated in Article 8 of the Regulations. While waiting for the consideration and acceptance of the Committee, NGOs with on-going programs, projects are permitted to temporarily operate as stated in their letters of application.

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The regulations regarding the competent authorities for the approval of programs and projects have since been revised. Refer to Article 6 of Decision No. 64/2001 QD-TTg dated 26 April 2001, on page 372.

7 - The issuance of Permit for the Establishment of Representative Office shall be done right after a Memorandum of Understanding (MOU) is signed by and between the concerned NGO and representative of the Committee. The Union shall be the agency responsible for drafting, discussion and agreement with the NGO concerning the details of the MOU.

8 - Within thirty (30) days from the date of issuance or extension of Permits, Project Office, Representative Office of NGOs shall have to complete operation registration procedures at provinces, centrally-administered cities as stated in Article 10 of the Regulations. This registration shall be done through the body in charge of NGO assistance affairs of the concerned provinces or centrally administered cities (list and contact addresses attached).

After completing operation registration procedures, the concerned NGO shall send a copy of the Operation Registration Form (Form 1 and Form 2 attached) to the Committee.

9 - Upon receipt of proper application documents for the issuance, extension, amendment of Permit for Operation, Permit for the Establishment of Project Office, Permit for the Establishment of Representative Office, PACCOM shall issue receipts.

III - RIGHTS AND RESPONSIBILITIES OF NGOs IN VIETNAM:

1 - Responsibilities of NGOs:

a) Chief of Representative Office, Project Office or the person authorized by the NGO to act as its representative shall abide by the stipulations stated in Articles 13, 14 of the Regulations.

Reporting: The time frame for regular reports (and upon-request reports) shall be as stipulated by the Regulations (15th June and 15th December every year for NGOs having been given Permits for the Establishment of Representative Office and the last day of each Quarter for NGOs with Permit for the Establishment of Project Office and Permit for Operation). Project Office of a Representative Office shall comply with Representative Office requirements. Requirements on the contents of regular reports of unified forms are to be sent to NGOs (Form 3, 4 attached).

Upon the completion of a project or at the end of each fiscal year, NGOs shall have their liquidation statements sent to the Committee, the project holder agency. The Committee shall request audits on the general financial activities of the Office and financial transactions of programs, projects when necessary.

b) Chief of Representative Office, Project Office or the person authorized as representative of NGOs bear the responsibility to assure that none of the staff of their NGOs conducts profit-making or other activities which are not related to the those stated in the application letters for Permits. Staff of one NGO can work regularly for another NGO only when permitted by that NGO and agreed upon by the Committee.

c) The person authorized by NGOs, Chief of Project Office and Representative Office bears the responsibility to assure that relatives and dependents of the staff of their organizations do not conduct technical, professional activities without seeking the approval of the Committee.

2 - Rights of NGOs:

a) Staff of NGOs shall be facilitated in getting entry-exit visas for Vietnam.

b) Representatives and full time staff of Representative Office, Project Office being foreigners and their relatives (parents and parents-in-law, spouse, children) are facilitated in obtaining entry visas according to current regulations of Vietnam.

Basing on the needs of programs, projects, consultants and advisers for specific programs, projects shall be considered and facilitated in obtaining entry-exit visas upon the needs defined in the programs, projects and current regulations of Vietnam.

c) Upon receipt of Permits for Project Office or Representative Office, NGOs are allowed to rent office space, housing, hire Vietnamese citizens to work in the Office in conformity with the regulations of the law of Vietnam. The number of foreign and Vietnamese staff working at the Office shall not exceed the number that is stated in the Permit. If a need for more staff is obvious, it shall be permitted by the Committee.

d) Representative and staff being foreigners of NGOs (when having assistance programs, projects) can open expenditure bank accounts (in foreign currencies or in Vietnamese Dong with foreign currency rooting) at banks established and operated alongside with the law of Vietnam.

e) Tax-exempt importation of commodities, materials, equipment and vehicles for programs, projects having been approved by competent authorities of Vietnam shall be facilitated, and carried out by the Vietnamese project holder agencies basing on the project agreements. All and every importation of commodities limited by Vietnam shall be approved by the Prime Minister prior to importation.

f) Representative Office and staff being foreigners shall be allowed to import with tax exemption, according to current regulations of Vietnam for foreigners, the following commodities and equipment:

- Equipment, supplies, materials and vehicles needed for the operation of the Office in Hanoi according to current regulations of Vietnam.

- Equipment, facilities and personal effects for the Representative and international staff within the first six months after their arrival in Vietnam.

g) Representative and staff being foreigners shall be allowed to re-export with tax-free of commodities and equipment stated in Clause f.

h) Chief of Project Office and foreign staff are allowed to import with tax exemption and tax-free re-export of certain office equipment and facilities, personal effects alongside with the regulations of the Customs Office of Vietnam. The Committee shall consider this on a case by case manner.

i) Officers, staff being foreigners of NGOs enjoy income tax exemption if all the payments are made from external sources.

IV - MECHANISM OF ADMINISTRATION, MONITORING, AND VIOLATION MANAGEMENT:

1 - NGOs shall abide by the stipulations in Articles 16, 17, Chapter IV on Implementation Provisions of the Regulations. Cases of delay due to the lack of information shall be specifically considered.

2 - People's Committees of provinces, cities where NGOs operate or Project Offices, Representative Offices are based, bear the responsibility to facilitate and administer the activities of NGOs (including administration and facilitation in housing, hiring staff, registration procedures according to current regulations and all activities of NGOs in the locality).

Line ministries, central agencies, People's Organizations, People's Committees of provinces and centrally-administered cities shall give guidelines, assistance and supervision the implementation of the Regulations according to given authorities. Every case of violation shall be addressed and reported to the Committee accordingly. Every merit of NGOs shall be reported to the Committee so that deserving acknowledgment could be given./.