

Appendix D-1:

PIM Guideline

(Final Draft) PIM Guideline for Republic of the Union of Myanmar

Chapter 1: Title and Definition

1. This Guideline shall be called "the Guideline for Participatory Irrigation Management
2. The following expression contained in this Guideline shall have the meanings given hereunder;
 - (a) "the Act" means Canal Act, 1905;
 - (b) "Department" means Irrigation and Water Utilization Management Department;
 - (c) "Regional Office" means Office of Irrigation and Water Utilization Management Department in the Region and State;
 - (d) "Farmer" means an owner or co-owner of land who is using canal water and is directly engaged in cultivation of land within the area of the irrigation system or a person who is his/her tenant or lease holder authorized by the owner or co-owner;
 - (e) "WUA" means a Water Users Association established under this guideline;
 - (f) "WUG" means a Water Users Group established under this guideline; and
 - (g) "General Assembly" means the General Assembly of a WUA constituted under this guideline.
 - (h) "Board of Directors" means the Board of Directors of a WUA constituted under this guideline.
 - (i) "Management Board" means the executive members elected by the General Assembly of a WUA or WUG.
 - (j) "Dispute Resolution Committee" means the Dispute Resolution Committee in the Region and State constituted under this guideline.
3. An expression used in this guideline but not defined shall have the same meanings as assigned to it in the Act and rules made any of these Acts or in the ordinary usage in the irrigation and drainage system of the Myanmar.

Chapter 2: Purpose

The irrigation sector of Myanmar has taken an initiative to promote the development of irrigation system in response to the vision for increment of rice production, and it has been contributed to expanding irrigated area and increasing agricultural production. Meanwhile, the Government of Myanmar is facing challenges to repair and improve the irrigation facilities due to the lack of maintenance, deterioration and so on. In addition, with the diversification of crop production, effective and efficient utilization of water resources is one of the urgent agendas of the irrigation sector of Myanmar.

Department is to facilitate rehabilitation of irrigation facilities for the cost-efficiency of O&M and efficient water use, as well as introduction of joint irrigation management by the government and farmers through farmers organization. Also, Department officials are required to understand the institutions, to take an appropriate initiative and to transfer the knowledge and technology to the farmers through better communication.

Accordingly, this guideline is constituted in order to promote joint irrigation management by the government and farmers with the interactive participation under the process of democratization.

Chapter 3: Establishment of WUG/WUA

1. WUG may be established at a turn-out/watercourse or turn-outs/watercourses connecting with a main, distributary or minor canal.
2. WUA may be established at a main, distributary, minor canal, or a part of these.
It is provided that Regional Office may establish a WUA composed of a group of WUG for their economical and sustainable works, on such terms and conditions as may be mutually agreed by WUG/WUA, or in the absence of such a mutual agreement, as determined by WUA.
3. The turn-out/watercourse of a main canal or a branch canal shall be included in the jurisdiction of the nearest distributary for formation and function of WUA of concerned distributary, or the jurisdiction of a WUA composed of a group of such turn-outs/watercourses.
4. Regional Office shall take steps for the establishment and formation of the above WUG/WUA.
5. Regional Office shall take all necessary steps for the establishment of WUG/WUA in accordance with this guideline.
6. Under this guideline, proper consideration shall be given to all the factors relevant to the establishment of WUG/WUA such as topography, water demand, socio-economic aspects, technical feasibility and size of the irrigation system of the area.

Chapter 4: Membership of WUA and WUG

1. The membership of WUA and WUG shall be available to all farmers without discrimination based on gender, race, religion and place of birth.
2. A person shall be disqualified to be elected as a Leader or Co-leader of WUG, or to be elected as an executive member of WUA or WUG, if he/she:
 - (a) is below the age of 25 years on the last date of filling the nomination;
 - (b) is not a registered farmer of the watercourse;
 - (c) is not an owner or co-owner within the watercourse;
 - (d) has been convicted of an offence which involves moral turpitude unless a period of 2 years has elapsed from the date of his/her conviction;
 - (e) has been dismissed from any public service on reasons of moral turpitude unless a period of 2 years has elapsed since the said dismissal;
 - (f) has been convicted of an offence, under Chapter 11 of the Act, 1905 or under Chapter 6 and Chapter 7 of the Embankment Act, 2017, unless a period of 2 years has elapsed since his/her conviction; or
 - (g) has committed serious irregularities as a member of Board of Directors, Management Board or any other Committees of WUA or WUG.
3. In case of a dispute on the eligibility of a person to become a member of WUA or WUG, the decision of General Assembly of WUG or WUA, Regional Office, or an officially authorized officer or that of Dispute Resolution Committee, shall be final.

Chapter 5: Constitution of WUG

1. A WUG shall consist of all the Farmers within the area of WUG in accordance with the regulations and they shall constitute General Assembly of the WUG.

2. Leader and Co-leader of WUG shall be elected by General Assembly of the WUG in accordance with the regulations.

It is provided that General Assembly of WUG may modify the number of the Co-leader of WUG, if it is not feasible to conduct their proper activities by WUG.

It is provided that in case, a WUG does not constitute a WUA or a WUG/ WUGs carry out the activities under land consolidation area without constitution of WUA, Management Board of WUG shall be comprised as that of a WUA under Article 3 of Chapter 6 in accordance with the regulations.

Chapter 6: Constitution of WUA

1. A WUA shall consist of all the Farmers within the area of the WUA in accordance with the regulations and they shall constitute the General Assembly of WUA, Board of Directors and Management Board.

2. Board of Directors shall consist of the Leaders of all the WUGs.

It is provided that in case, a WUA comprises of less than 5 WUGs, the Members of Board of Directors shall also be elected from all the farmers of the WUA.

3. Management Board shall be decided by the General Assembly of WUA after those candidates were elected among the members of Board of Directors in accordance with the regulations and they shall comprise the following office bearers:

(a) Chairman;

(b) Vice Chairman;

(c) Secretary;

(d) Treasurer;

(e) Auditor and;

(f) 8 general executive members, the members of Management Board should be elected in the whole area of WUA on equal basis.

It is provided that Board of Directors may modify the number of Management Board of a WUA, it is not feasible to have a Management Board of the WUA.

4. WUA may put any specific committees such as finance, water distribution etc. in accordance with the regulations, to develop their joint management activities of the WUA, after the agreement among General Assembly.
5. The Regional Office shall depute a suitable officer or official of the canal as Office Secretary who shall be the custodian of the record of the WUA and shall also perform such other duties as may be entrusted to him/her by the WUA.

Chapter 7: Representation of WUG leaders

- If elected as executive members of WUA, it will be stipulated that another leader of WUG may be appointed

1. A Chairman, Vice Chairman or the other executive members of WUA may transfer the duties of a WUG leader to the person who is elected by a meeting of the WUG, as far as agreed by the General Assembly of WUA.

Chapter 8: Tenure of Executive Members

- The terms of executive members of WUG/WUA will be stipulated

1. The tenure of Leader and Co-leader of WUG, Management Board of the WUA or WUG, and Board of Directors of WUA shall be 2 years. Election of executive members of WUA or WUG should be conducted every 2 years.
2. Executive members of WUA or WUG may be reappointed.

Chapter 9: Territorial Jurisdiction

- Territorial area covered by WUG/WUA will be stipulated

1. The jurisdiction of a WUA and a WUG shall extend to the gross area falling within the boundaries of the irrigation system for which it has been established.

Chapter 10: WUA Registration

- Procedures for registration of WUA to the government will be stipulated

1. Department shall designate officers working in Regional Office as the Registrar for WUA and officers working in the Head Office of Department as the Registrar, at its head office, who shall perform all functions relating to the registration of the WUA under this guideline.
2. A WUA shall get itself registered with the Registrar, soon after its constitution or re-constitution.
3. No WUA shall be entitled to the rights, privileges, or powers of a WUA unless it is duly registered under this guideline.
4. An application for registration shall be made to the Registrar of Regional Office by Board of Directors of a WUA.
5. A WUA will be registered if:
 - (a) General Assembly has been constituted in accordance with the regulations;
 - (b) Board of Directors and Management Board of the WUA have been duly elected;
 - (c) the application is made by Board of Directors of the WUA; and
 - (d) agreement for participatory irrigation management between Department and the WUA has been signed.
6. An appeal against the decision relating to the registration of a WUA may be made to Regional Office.

Chapter 11: Cancellation of WUA Registration

- Procedures for cancellation of WUA registration will be stipulated

1. The registration of a WUA shall be cancelled when the WUA is dissolved under this guideline.

Chapter 12: Suspension, Dissolution and Removal

- In case of problems, regulations of IWUMD to dispose WUA will be stipulated

1. Board of Directors of WUA may be suspended or dissolved as below:
 - (a) Department, [on its own motion, on the declaration from the Management Board of a WUA based on due notice of aggrieved persons or on necessary inquiries,] suspend the activities of Board of Directors of the WUA on any of the reasons specified in Chapter 12;
 - (b) the order of suspension shall remain in force for a period of 30 days unless earlier withdrawn;
 - (c) in case that an order is made under point (a) of Article 1. of Chapter 12:
 - (i) Department shall make necessary consequential arrangements to protect the public interest; and
 - (ii) Department may start the procedures for dissolution of Board of Directors of a WUA with reasonable causes, under point (a) of Article 1 of Chapter 12; and

- (d) Department, may at any time, withdraw an order of suspension, as far as reasonable, for the public interest.
2. Department may [on the declaration of an aggrieved person or on its own motion, after due notice and opportunities afforded for hearings] suspend an Office Bearer of Management Board or a member of the General Assembly of a WUA or WUG, for any of the following reasons:
 - (a) failure to perform duties according to the rules, regulations and directions of Department, WUA and WUG;
 - (b) failure, without sufficient reasons, to attend the 3 consecutive meetings of General Assembly or Board of Directors of WUA;
 - (c) substantial neglect to cooperate with the WUG based on the given duties and responsibilities;
 - (d) violation of provisions of the Act, or rules and/or regulations framed thereunder;
 - (e) misappropriation of the funds of Department, WUA or WUG;
 - (f) patent misuse of office or abuse of power;
 - (g) acts of indiscipline which are prejudicial to the official work; or
 - (h) misconduct.
 3. The order of suspension shall remain in force for a period of 30 days, unless earlier withdrawn [same as point (b) of Article 1 of Chapter 12].
 4. In case that the order of suspension has been passed under this guideline, Department may [after due notice and hearings from the parties or the persons involved,] dismiss any Office Bearer of Management Board or a member of General Assembly of the WUA or WUG.

Chapter 13: Request for Administrative Review and Dissolution

- If a WUA disagree with the above disposition, the WUA will be able to request for administrative review

1. Notwithstanding the provisions of Chapter 12, Department may, [on its own motion or on the declaration of an aggrieved person, after due notice and preliminary inquiries,] commence procedures for the dissolution of Board of Directors of WUA or Management Board of WUG.
2. The Department in this behalf, shall issue a notice to Board of Directors of WUA or Management Board of WUG and shall fix the place and date of a hearing which shall not be earlier than 7 days, and later than 14 days from the date of issuance of the notice.
3. The Department in this behalf may, on the said date of hearing or on any subsequent date to which the hearing is adjourned, after providing hearings to the parties and after such inquiries as is necessary in the circumstances, order of dissolution of Board of Directors of WUA or Management Board of WUG for any of the following reasons:
 - (a) serious violation of the Act, rules, regulations or agreement mentioned under point (d) of Article 5 of Chapter 10 in this guideline;
 - (b) patent misuse of power or abuse of authority;
 - (c) neglect of duty;
 - (d) misconduct;
 - (e) misappropriation of funds or resources; or
 - (f) miss-management or inefficiency due to which its continuance is not for the public interest.

4. In case that Board of Directors or Management Board is dissolved under this guideline, Department shall make appropriate consequential arrangements and pass necessary orders for that purpose.
5. The consequential arrangements [referred to in Article 4. of this chapter and Article 1. of Chapter 12] may include, among others:
 - (a) appointing an ad hoc Board of Directors or Management Board composed of the Farmers of WUA or WUG; and
 - (b) directing any canal officer [referred to in Article 5 of the Chapter 6]to take over the management of WUA or WUG.

Chapter 14. Directions, Reports and Inquiries

1. The Department may:
 - (a) give such directions to a WUA, which it is considered appropriate and expedient for the public interest;
 - (b) call for any reports from a WUA on any matters relating to the affairs of the said WUA;
 - (c) order for an inquiry into the affairs of a WUA and, based on the result of the inquiry, may take such action as it is considered necessary for the public interest; and
 - (d) evaluate the performance of a WUA and issue directions to such WUA based on the evaluation as it may deem appropriate.
2. In case that the WUA substantially fails to follow the directions or fails to submit an accurate report, or its performance has been found unsatisfactory, Department pass such orders as it may be considered necessary for the public interest.
3. In case that a WUA fails to respond efficiently, to prevent and check canal water theft and equitable distribution of the water to outlets, Regional Office may take appropriate action for the public interest subject to submission of a report with details of action taken to Department which may pass such orders as it deems fit.
4. In case of a breach or threat to the safety of channel or any other emergency, which is not being timely and appropriately addressed by the WUA, Regional Office, may take all necessary steps to protect the public interest according to the guidelines provided by the Department.
5. The expenditure to carry out the necessary work under Article 3 and 4 of this chapter shall be made from the budget of Regional Office.
6. If the WUA is satisfied that a WUA is not working as per the agreement under Chapter 19 of this guideline or not handling its finances appropriately, WUA may take suitable measures to streamline its works, expenditures and the payment to be made by the WUAs:

It is provided that Regional Office may withdraw the order when he is satisfied that the WUA has started working with due diligence and propriety.

Chapter 15: Election

1. The elections under this guideline shall be held and the lists of the eligible voters shall be prepared and revised in accordance with the regulations.
2. A person shall be disqualified to be a voter, if he/she:
 - (a) is not a Farmer within the area of WUA or WUG; or
 - (b) has not attained the age of 18 years on the date of the publication of final voter list; or

- (c) has defaulted in the payment of water tax for a period of 3 months from the date when these charges became due or has failed to deposit with the WUA, or in its account, the water tax or other charges collected on behalf of the WUA within a period of 1 month; or
 - (d) has been declared insolvent, or
 - (e) is of unsound mind.
3. All election disputes and disputes relating to the voter lists shall be decided by Department or a duly authorized Officer of Department or by Dispute Resolution Committee constituted by Department on the application of an aggrieved person.

Chapter 16: Role and Responsibilities of WUG

1. The WUG formed under this guideline shall perform the following functions:
- (a) to mediate in disputes among Farmers for equitable distribution of the canal water;
 - (b) to prevent the entry of cattle in the minor or distributary canal;
 - (c) to support maintenance of the water course;
 - (d) to undertake development activities of the water course;
 - (e) to report tampering of outlets to the WUA;
 - (f) to report shortage of water supply to the outlet;
 - (g) to provide timely information about rotational plan of canal to the Farmers;
 - (h) to persuade the Farmers and other users of the canal water to make timely payment of the water tax etc.;
 - (i) to protect the watercourse, its land and right of way along its route, and
 - (j) to exercise powers and perform such other functions as are necessary and proper for the performance of the above functions.

Chapter 17: Role and Responsibilities of WUA

1. Department may, [through agreement under Chapter 19 of the guideline,] authorize a WUA with such functions relating to all or any of the matters mentioned in point (a) to (o) of Article 2 as it may be considered fit.
- It is provided that the formation of WUA and its empowerment may be gradually improved, keeping all the attendant circumstances in view;
2. Subject to Article 1, a WUA shall perform the following functions:
- (a) to manage, operate, and maintain the main, distributary, or minor canals, or a part of those within the operation area together with hydraulic structures according to the approved design;
 - (b) to obtain authorized irrigation water supplies, as per availability from the dam reservoir at the point where the management is transferred to the WUA;
 - (c) to supply the irrigation water equally and efficiently to the farmers within its area;
 - (d) to protect the environment within its area including the water quality;
 - (e) to assess the water tax and other irrigation related charges to be collected from the water users;
 - (f) to collect the water tax, member fees, and other dues from the persons liable to pay them;
 - (g) to deposit the collected amount of water tax with Department;
 - (h) to collect charges for additional services rendered by the WUA;

- (i) to settle disputes among the Farmers of the area or other water users in accordance with this guideline and the regulations;
- (j) to conduct related activities and to perform such other functions as are necessary and proper for the performance of the above functions;
- (k) to detect, report and assist Department in the prosecution of the offences;
- (l) to check the incidents of theft of the canal water and report the matter to Regional Office;
- (m) to work in collaboration with canal officer within its area;
- (n) to undertake maintenance, repair and development works of the canals on such terms and conditions; and
- (o) to assist the canal officers in the formulation of the rotational plan of the canals.

Chapter 18: Role and Responsibilities of IWUMD

Role and responsibilities that IWUMD should fulfill against WUG/ WUA will be stipulated.

1. For the achievement of the term and condition of agreement with WUA and the development of joint management or Participatory Irrigation Management in the Republic of the Union of Myanmar, Department shall perform the following role and responsibilities:
 - (a) to list up the beneficiary farmers and water users within the area of WUA or WUG;
 - (b) to conduct necessary survey such as topography, water demand, rainfall, water discharge, etc.;
 - (c) to develop water distribution plan based on land condition, water demand, weather condition, etc.;
 - (d) to conduct water distribution within the area of WUA or WUG;
 - (e) to manage, operate, maintain the irrigation system;
 - (f) to support for the establishment and operation of WUA or WUG in cooperation with related departments of MOALI and authority such as General Administration Department etc.;
 - (g) to share the related information to the beneficiary farmers and the public to conduct better joint management through Participatory Irrigation Management;

Chapter 19: Transfer Procedure from IWUMD to WUA

1. Department shall ensure that management of a part of irrigation facilities are transferred to the WUAs in a phased and orderly manner and Department may enter into an agreement with a WUA for this purpose:

It is provided that the ownership of any property of Department shall not be transferred to a WUA through any such agreement.

Chapter 20: Dispute Resolution

1. All disputes regarding the powers, functions and jurisdiction of the WUA shall be dealt with and decided by Department or by Dispute Resolution Committee constituted by Department:

It is provided that Dispute Resolution Committee shall act under the general supervision and the administrative control of Department.

2. The decision, order or direction of Department or Dispute Resolution Committee shall be final and binding upon parties to the dispute:
It is provided that the officer or Dispute Resolution Committee shall act under the general supervision and the administrative control of Department.
3. All disputes relating to the use of canal water between the Farmers or other water users including those matters which are covered under the Act, and the rules framed thereunder, shall be resolved through mediation by the WUG of the area:
It is provided that a Farmer may submit his/her dispute to the Chairman or Secretary of the WUA who shall forward it to the Leader of WUG for resolution, in case that he/she does not directly submit it to the Leader of WUG.
4. In case that the WUG is unable to resolve the dispute within 7 days, it shall refer the case to the WUA of the area:
It is provided that if the WUG fails to refer the dispute, a party of the dispute may make an application to the WUA for resolution of the dispute.
5. The WUA shall thereafter proceed with the case in the manner provided in the Act:
It is provided that the WUA shall consult the WUG of the area before deciding the dispute.
6. A person aggrieved by the decision under this guideline may appeal to Department, or to Dispute Resolution Committee constituted by Department, and the decision of Department or Dispute Resolution Committee shall be final.

Chapter 21: WUA Management Fund

1. Every WUA shall establish a fund to which shall be credited all sums received by the WUA.
2. Subject to the financial procedure determined by Department and the directions of Department, the funds of a WUA shall be employed for:
 - (a) canal works as agreed with Department; or
 - (b) meeting its operational and service costs; or
 - (c) serving its debt obligations; or
 - (d) constitution of reserves; or
 - (e) other related activities with the approval of Department.
3. The annual budget shall be prepared by Board of Directors and presented to General Assembly of the WUA for approval.

Chapter 22: Accounting

1. Every WUA shall maintain proper books of accounts and financial records on a commercial basis and shall prepare the following financial statements:
 - (a) the income and expenditure accounts;
 - (b) the receipts and payments of the previous years; and
 - (c) the balance sheets.
2. WUA shall, not later than 3 months from the close of the relevant financial year, audit its accounts by the auditors as per the directions of Department.

Chapter 23: Response to Provisions for Dispute Resolution

1. If any difficulty arises in the implementation of this guideline, Department may take such action or make such orders, which is not be inconsistent with the provisions of this guideline, as may appear necessary for removal of the difficulty.

Chapter 24: Transitional Measures

In case that WUG/ WUA is established before constitution of this guideline, Special Treatment will be stipulated

1. Notwithstanding the provision of this article:
 - (a) any WUA and WUG established, any order passed, any action taken, or any instrument or instruction issued under the applied rules shall be deemed to have been established, passed, taken and issued under this guideline; and
 - (b) elections held under the applied rules shall remain valid for the purposes of this guideline.

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