

Pursuant to the Prime Minister's Decision No.82/2002/QĐ-TTg of June 26, 2002 on the setting up, organization and operation of Vietnam Environment Protection Fund;

At the proposals of the director of the Environment Department and the director of the Organization and Scientific Personnel Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Organization and Operation Charter of Vietnam Environment Protection Fund.

Article 2.- This Decision takes effect 15 days after its signing.

Article 3.- The director of the Environment Department, the director of the Organization and Scientific Personnel Department, the chairman of the Managing Council and the director of Vietnam Environment Protection Fund, and the concerned units shall have to implement this Decision.

**Minister of Science, Technology
and Environment
CHU TUAN NHA**

**DECISION No.53/2002/QĐ-BKHCHNMT OF
JULY 16, 2002 PROMULGATING THE
ORGANIZATION AND OPERATION CHARTER
OF VIETNAM ENVIRONMENT PROTECTION
FUND**

**THE MINISTER OF SCIENCE,
TECHNOLOGY AND ENVIRONMENT**

Pursuant to the Environmental Protection Law of December 27, 1993;

Pursuant to the Government's Decree No.175/CP of October 18, 1994 guiding the implementation of the Environmental Protection Law;

Pursuant to the Government's Decree No.22/CP of May 22, 1992 stipulating the functions, tasks and organizational structure of the Ministry of Science, Technology and Environment;

**ORGANIZATION AND OPERATION CHARTER
OF VIETNAM ENVIRONMENT PROTECTION
FUND**

(Promulgated together with Decision No.53/2002/QĐ-BKHCHNMT of July 16, 2002 of the Minister of Science, Technology and Environment)

Chapter I

GENERAL PROVISIONS

Article 1.-

1. Vietnam Environment Protection Fund is a State-run financial organization which is set up,

organized and operates under the Prime Minister's Decision No.82/2002/QĐ-TTg of June 26, 2002. The Fund has the legal person status, its charter capital, its own accounting balance sheet and seal, and is entitled to open accounts at the State Treasury and banks at home and abroad.

2. The Fund's transaction name in English is Vietnam Environment Protection Fund or VEF in abbreviation.

3. Vietnam Environment Protection Fund's head office is located in Hanoi. The Fund's representative offices are located in the provinces and centrally-run cities. The Fund's transaction offices are based in foreign countries according to the Government's regulations.

Article 2.- Vietnam Environment Protection Fund operates for non-profit purposes, but must ensure the retrieval of its charter capital and the coverage of its managerial expenses.

The Fund is entitled to receive capital sources from the State budget and mobilize other capital sources to provide financial supports and/or aids in the field of environmental protection.

Chapter II

TASKS AND POWERS OF VIETNAM ENVIRONMENT PROTECTION FUND

Article 3.- Vietnam Environment Protection Fund has the following tasks:

1. To mobilize capital sources at home and abroad according to the provisions of law for investment in the environmental protection.

2. To render financial supports for programs, projects and activities of preventing, fighting or overcoming environment pollution, deterioration and incidents of national, inter-branch or inter-regional nature, or solving environmental problems of sectional nature but of great impacts.

3. To receive and manage capital sources entrusted by organizations and individuals at home and abroad in order to render financial supports for environmental protection programs, projects, activities and tasks.

4. To organize and guide the formulation, evaluation and selection of environmental protection programs, projects, activities and tasks calling for financial aids or supports strictly according to law provisions.

5. To use idle capital not originating from the State budget to buy government bonds according to law provisions with consents of organizations and/or individuals that supply such capital.

6. To ensure the retrieval of its charter capital on the basis of balancing mobilized or received capital sources with financial supports rendered for the environmental protection.

7. To manage its capital and assets according to law provisions.

Article 4.- Vietnam Environment Protection Fund has the following powers:

1. To organize its executive body and professional units, which operate in compatibility with its objectives and tasks as well as the provisions of this Charter.

2. To regularly and irregularly inspect the units using the Fund's capital in the implementation of environmental protection programs, projects, activities and tasks.

3. To mobilize specialists from the concerned ministries, branches and organizations to join the council for evaluation of environmental protection programs, projects, activities and tasks calling for financial aids or supports from the Fund, as well as in service of other relevant activities of the Fund.

4. To suspend the provision of financial aids or loan interest rate support, recover capital or initiate lawsuits as prescribed by law against investors that breach commitments made with the Fund or violate the State's regulations.

5. To refuse all requests of any organizations or individuals for the supply of information and other resources of Vietnam Environment Protection Fund, if such requests are contrary to law provisions and this Charter.

6. To directly contact organizations and individuals at home and abroad to mobilize, attract and receive financial aids for the Fund and mobilize capital for the Fund according to the assigned plans.

7. To send its officials and employees abroad to work, study, research, visit or survey strictly according to the provisions of law.

Chapter III

ORGANIZATIONAL APPARATUS OF VIETNAM ENVIRONMENT PROTECTION FUND

Article 5.-

1. Vietnam Environment Protection Fund has its Managing Council, Control Board and an operation-administering body.

2. The Fund's Managing Council, Control Board and professional operation-administering body shall operate according to the provisions of this Charter and be responsible for all their activities.

3. Vietnam Environment Protection Fund is entitled to set up specialized consultation councils to assist it in evaluating environmental protection programs, projects, tasks and activities calling for financial support. Specialized consultation councils shall operate according to the regulations promulgated by the Fund's Managing Council.

Article 6.-

1. Vietnam Environment Protection Fund's Managing Council shall be composed of its chairman being a Vice Minister of Science, Technology and Environment and four members being competent representatives of the Ministry of Finance, the Ministry of Planning and Investment, the State Bank of Vietnam and a leading official of the Environment Department.

The members of the Managing Council shall work on a part-time basis.

2. Working regime of the Fund Managing Council

a/ The Fund Managing Council shall work according to the collective regime, meet once every three months to consider and decide on matters falling under its competence. The Fund Managing Council may hold extraordinary meetings to solve unexpected problems.

In some particular cases, the chairman of the Fund Managing Council may request the council members

to give their opinions in writing.

b/ The Fund Managing Council shall decide on all matters according to the principle of majority.

3. The Fund Managing Council has the following tasks:

a/ To decide on the orientation and plans on operation, capital mobilization, financial supports and aids; and approve the Fund's financial plans and final settlement reports.

b/ To inspect and supervise Vietnam Environment Protection Fund's operation-administering body and the Control Board in their observance of undertakings, policies and law provisions as well as their execution of the Council's decisions.

c/ To give guidance on the priority list, selection criteria and procedures for considering the provision of loans and financial aids by the Fund.

d/ To propose to the competent authorities amendments and/or supplements to the Fund's Organization and Operation Charter.

4. The Fund Managing Council has the following powers:

a/ To decide according to its competence on the investment supports and/or financial aids for environmental protection programs, projects, activities and tasks.

b/ To settle according to law provisions complaints of organizations and individuals that borrow capital or receive supports from the Fund.

c/ To appoint or dismiss the head and members of the Control Board. To propose the Minister of Science, Technology and Environment to appoint or dismiss the director, deputy directors and chief accountant of the Fund.

d/ To decide on the setting up and determination of organizational structure and operation of the Fund's representative offices in the provinces and centrally-run cities and its transaction offices in foreign countries according to law provisions.

e/ To decide on the setting up of specialized consultation councils.

f/ To use the apparatus of the Fund's executive body and seal in the performance of its tasks and exercise of its powers according to this Charter.

g/ Its operation funding shall be accounted into

the Fund's operation expenses.

Article 7.-

1. Vietnam Environment Protection Fund's Control Board is composed of three persons. The Board's head shall be appointed and dismissed by the Fund Managing Council. Other members shall be appointed and dismissed at the proposal of the Board's head.

The members of the Control Board shall work on a part-time basis.

2. The Control Board has the following tasks and powers:

a/ To inspect and supervise the Fund's operations according to the Charter and law provisions and under decisions of the Fund Managing Council.

b/ To work out and submit its working plans to the Fund Managing Council, and organize the implementation thereof in an independent manner.

c/ To perform tasks assigned by the Fund Managing Council.

d/ To examine and request the Fund Managing Council to settle complaints of organizations and individuals about matters related to the Fund's operation.

3. The Control Board's head or its members authorized by the Board's head may participate in and make their comments at meetings of the Fund Managing Council but are not entitled to vote.

4. The Control Board's head shall elaborate the Board's operation regulation and submit it to the Fund Managing Council for decision.

5. Operation funding of the Control Board shall be accounted into the Fund's operation expenses.

Article 8.-

1. Vietnam Environment Protection Fund's operation-administering body is composed of the director, the deputy director, the chief accountant and the assisting section.

2. Vietnam Environment Protection Fund's director is a leading official of the Environment Department working on a part-time basis and appointed and dismissed by the Minister of Science, Technology and Environment at the proposal of the Fund Managing Council.

3. Vietnam Environment Protection Fund's assisting section is composed of the Fund's office, a number of specialized and professional units proposed by the Fund's director and decided by the Fund Managing Council.

Article 9.-

1. Part-time officials working for the Fund shall enjoy part-time regimes according to the current regulations.

2. The Fund's officials shall enjoy wages, rewards and other welfare amounts according to the current regulations applicable to State enterprises.

Article 10.-

1. Vietnam Environment Protection Fund's director is the Fund's representative at law in its legal relations at home and abroad, be responsible to the Fund Managing Council and law for all professional operations of the Fund.

2. The Fund's director has the following tasks and powers:

a/ To organize and manage the operation of the Fund's operation-administering body according to the Charter, decisions of the Fund Managing Council and provisions of law.

b/ To work out the Fund's annual financial revenue-expenditure plans, then submit them to the Fund Managing Council for approval, and organize the implementation thereof.

c/ To make periodical reports on the situation of capital mobilization and financial supports, and the Fund's annual financial reports to the Fund Managing Council.

d/ To propose the setting up of specialized consultation councils, sum up and process consultations before submitting them to the Fund Managing Council for decision.

e/ To promulgate the operation regulation of the assisting section, and submit to the Fund Managing Council for approval documents on professional guidance.

f/ To recommend the Fund's deputy director and chief accountant to the Fund Managing Council, which shall subsequently submit them to the Minister of Science, Technology and Environment for

appointment or dismissal.

g/ To manage and use capital, assets and other resources of the Fund according to this Charter and law provisions.

h/ To participate in regular meetings of the Fund Managing Council and give their opinions on such meetings' contents.

Article 11.-

1. The specialized consultation councils shall advise the Fund on the evaluation and selection of environmental protection programs, projects, tasks and activities calling for financial supports.

2. Members of the specialized consultation councils *must have professional capabilities, qualifications and skills* suitable to the contents calling for financial supports.

3. The specialized consultation councils shall work according to the regulation promulgated by the Fund Managing Council.

4. Expenses for operation of the specialized consultation councils shall be accounted into the Fund's managerial expenses.

Chapter IV

OPERATION OF VIETNAM ENVIRONMENT PROTECTION FUND

Article 12.-

1. Vietnam Environment Protection Fund's operation shall be conducted by the following modes:

- a/ Provision of loans at preferential interest rates,
- b/ Provision of lending interest rate support,
- c/ Financing and co-financing,
- d/ Entrustment undertaking and making,
- e/ Purchase of government bonds.

2. Eligible for the Fund's financial supports are environmental protection programs, projects, activities and tasks of national, inter-branch or inter-regional nature or solving environmental problems of sectional scale but of great impacts in the domains of preventing, fighting and overcoming environmental pollution, deterioration and incidents.

3. Subjects enjoying financial supports provided by the above-said modes must satisfy requirements for each mode prescribed in this Charter.

Article 13.- Mode of providing loans at preferential interest rates by the Fund is prescribed as follows:

1. Borrowers:

Borrowers are the following environmental protection programs, projects and activities:

- a/ Environmental pollution prevention, fighting and overcoming, and waste treatment.
- b/ Environmental deterioration prevention, fighting and overcoming, and bio-diversity protection.
- c/ Prevention, fighting and overcoming of environmental incidents, including those occurring in the wake of natural disasters.

The annual lists of priority capital borrowers shall be decided by the Fund Managing Council.

2. Conditions on capital borrowers:

- a/ Being the subjects defined in Clause 1 of this Article.
- b/ Having real capabilities to repay loan debts.
- c/ Having complete capital-borrowing dossiers as prescribed by the Fund.

3. Loan levels and competence to decide the lending:

a/ Loan levels must not exceed 70% of investment expenses for environmental protection contents of capital borrowers.

b/ The Fund Managing Council shall decide on loan level for each borrower. For a loan of VND one billion or more, the Fund Managing Council shall ask for the consent of the Minister of Science, Technology and Environment.

4. Loan terms:

Loan terms shall be determined in compatibility with the production and/or business characteristics of each capital borrower and debt-repaying capability of the investor, but must not exceed 7 years.

5. Lending interest rate:

a/ Lending interest rate of Vietnam Environment Protection Fund is 0%/year.

b/ Capital borrowers must pay the management

fee to the Fund at specific fee rates prescribed by the Finance Ministry.

6. Loan security:

a/ Capital borrowers shall be entitled to use assets formed from borrowed capital to secure loans or secure loans with asset guarantee by a third party.

b/ Pending the full repayment of debts, the investor or the guarantor must not transfer, sell, mortgage or pledge assets defined in Clause a of this Article to borrow capital from other sources.

7. Deduction for setting up the risk reserve fund for project loans:

a/ Annually, Vietnam Environment Protection Fund is allowed to deduct 0.1% of its total loan debit balance to set up the risk reserve fund for handling objective risks.

b/ The deduction for setting up the risk reserve fund shall be accounted into the Fund's professional operation expenses.

8. Handling of risks:

The Fund's capital borrowers that are suffering from risks due to force majeure reasons shall be considered for rescheduling, freezing, partial or whole remission of their debts.

The Fund Managing Council shall decide on the rescheduling, freezing and remission of debts valued at up to VND one billion. The remission of a debt of VND one billion or more for a borrower must be co-consented by the Minister of Science, Technology and Environment and the Minister of Finance. The total debt remission for borrowers must not affect the preservation of the Fund's charter capital.

Article 14.- Mode of providing loan interest rate supports by the Fund is prescribed as follows:

1. The Fund shall decide on the list of and specific loan interest rate supports for environmental protection projects borrowing investment capital from credit institutions.

2. Projects eligible for loan interest rate supports must be those specified in Clause 2, Article 12 of this Charter which are particularly important to the environmental protection work and at high risk.

3. Competence to decide on loan interest rate supports for environmental protection investment

projects when such projects borrow capital from credit institutions is provided for like that in case of financial aids prescribed in Article 15 of this Charter.

4. The provision of loan interest rate supports shall be made only once for each environmental protection investment project. The provision of support funds shall be effected when projects are completed and their results are put to use. The total loan interest rate support amount in a year must not exceed 20% of the Fund's annual supplementary capital.

Article 15.- Mode of financing and co-financing by Vietnam Environment Protection Fund is prescribed as follows:

1. The Fund shall finance environmental protection activities and tasks which are necessary, extraordinary, newly emerging or important to the environmental protection cause and sustainable development of the nation, and not included in plans of the ministries, branches and localities, including:

a/ Propagation and education to raise environment awareness of, and universalization of environmental protection knowledge to the population community.

b/ Mobilization of the community's participation in the environmental protection cause; commendation and rewarding of organizations and individuals at home and abroad that make great contributions to the environmental protection and sustainable development.

c/ Formulation, experimentation, popularization and augmentation of environmental protection models.

d/ Designing of programs and projects aiming to mobilize financial aids from organizations and individuals at home and abroad for environmental protection.

e/ Scientific research into and transfer of environment-friendly technologies, cleaner production, solutions to prevent, limit and overcome environmental incidents.

2. Conditions for enjoying non-refundable financial aids:

Activities and tasks defined in Clause 1 of this Article shall be considered for financial aids on the condition that subjects calling for financial aids must have a reciprocal capital representing at least 50% of

the total capital required for performance of such environmental protection activities and tasks.

3. Subjects eligible for financial aids shall have to pay the managerial fee to Vietnam Environment Protection Fund. The specific fee levels shall be prescribed by the Finance Ministry.

4. Competence to decide on non-refundable financial aid levels:

a/ Non-refundable financial aid level must not exceed 50% of investment expenses for environmental protection contents of financed subjects.

b/ The Fund Managing Council shall decide on non-refundable financial aid level for each eligible subject. For a financial aid of VND one billion or more, the Fund Managing Council shall propose it to the Minister of Science, Technology and Environment for the latter's consent.

5. The Fund shall be entitled to cooperate with organizations and individuals at home and abroad in co-financing environmental protection tasks and activities according to the provisions of this Charter and compliant with commitments of co-financing parties.

6. The Fund shall use at most 50% of annual supplementary capital to effect the mode of financing and co-financing.

Article 16.- Mode of undertaking and making entrustment by Vietnam Environment Protection Fund is prescribed as follows:

1. Undertaking entrustment:

a/ The Fund may be entrusted by organizations and individuals at home and abroad to provide loans and/or recover debts and financial aids under entrustment-undertaking contracts.

b/ The Fund shall enjoy the entrustment-undertaking service charge. The entrustment-undertaking service charge levels shall be agreed upon by the parties and inscribed in entrustment-undertaking contracts.

2. Making entrustment:

a/ The Fund is entitled to entrust credit institutions and/or financial organizations to provide loans and recover debts under entrustment contracts.

b/ Entrusted organizations shall enjoy the entrustment-undertaking service charge. The entrustment-undertaking service charge levels shall be agreed upon by the parties and inscribed in entrustment contracts.

Article 17.- Mode of purchasing government bonds by Vietnam Environment Protection Fund is prescribed as follows:

1. The Fund is allowed to use idle capital not originating from the State budget to purchase government bonds in compliance with law provisions and the Finance Ministry's guidance, and with consents of organizations and individuals that supply such capital.

2. The total funding amount for purchase of government bonds must not exceed 50% of the total idle capital prescribed in Clause 1 of this Article.

Chapter V

CAPITAL SOURCES FOR OPERATION OF VIETNAM ENVIRONMENT PROTECTION FUND

Article 18.- The charter capital of Vietnam Environment Protection Fund is VND 200 billion allocated by the State budget from the scientific non-business source and shall be fully allocated within 2 years after the decision to set up the Fund is issued.

Article 19.- Annually, Vietnam Environment Protection Fund's operation capital shall be supplemented from the following sources:

1. Compensations for environmental damage (to be remitted into the State budget) paid by organizations and individuals as prescribed by law.

a/ Compensations for environmental damage include compensations for damage caused by environmental incidents, environmental pollution and activities harmful to the environment done in the past as defined in Articles 7 and 53 of the Environmental Protection Law.

b/ The regime of collection and payment of damage compensations into the Environment Protection Fund shall be implemented under the Finance Ministry's guidance.

2. 50% deduction from the collected environmental protection fee as prescribed by law

a/ Environmental protection fee includes all kinds of environment-related fee defined in the Government's Decree No.57/2002/ND-CP of June 3, 2002 guiding the implementation of the Ordinance on Charges and Fees.

b/ The regime of fee collection, payment and partial remittance into Vietnam Environment Protection Fund shall comply with the Government's regulations.

3. 10% deduction from annual funding for the State management over environmental protection.

4. Voluntary contributions, aids and financial supports to the Fund from organizations and individuals at home and abroad.

5. Other revenues defined by law.

6. Capital entrusted by organizations and individuals at home and abroad for the environmental protection.

Chapter VI

FINANCIAL MANAGEMENT OF VIETNAM ENVIRONMENT PROTECTION FUND

Article 20.- Annually, Vietnam Environment Protection Fund shall have to:

1. Work out plans on mobilizing and using capital for its financial support activities.

2. Elaborate financial revenue-expenditure estimates for the operation of its apparatus according to this Charter and the Finance Ministry's guidance.

Article 21.-

1. A fiscal year of Vietnam Environment Protection Fund shall begin on January 1 and end on December 31 of the same year.

2. The Fund's financial regime and accounting regime shall be applied according to the Finance Ministry's regulations.

3. Expenses for activities of managing and administering the Fund's apparatus shall be covered by Vietnam Environment Protection Fund's revenue sources.

Article 22.- Vietnam Environment Protection Fund shall organize by itself the internal audit of its financial reports or hire independent auditors if deeming it necessary.

Article 23.- Vietnam Environment Protection Fund shall make and send its professional operation report, statistical report, accounting report and other regular and irregular reports according to the current regulations.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 24.- This Charter takes effect 15 days after the signing date of the decision on promulgation thereof.

The amendment and supplement to the Fund's Organization and Operation Charter shall be submitted by the Fund Managing Council to the Minister of Science, Technology and Environment for decision.

The chairman of the Fund Managing Council and the Fund's director shall have to organize the implementation of this Charter.

**Minister of Science, Technology
and Environment
CHU TUAN NHA**