

The article 45 of the 1993 amended Land Legislation requires each commune to retain 5% of farm land area at most for the public utility. To give detailed guidelines for the implementation of the article 45, the Government issued Decree 64/CP on Sep. 27, 1993 on the allocation of farm land to households, individuals for long-term agricultural production. The article 14 of the Decree 64/CP states clearly: Based on the land resource, the local characteristics and requirements, the provincial People's Council determines the percentage of land earmarked to each commune, not exceeding 5% of its total farm land. Those having various kinds of farm land will be granted a fraction of wet rice growing land for public utility plus another kind of land as decided by the provincial People's Council.

In case where the commune uses over the fraction of land determined by the provincial People's Council, the surplus shall be brought back to households and individuals.

To execute the Land Legislation and the Government's Decree 64/CP in the past five years (1994-1998), all provinces across the country inventoried the total land resource they were managing and using, including the 5% land for public utility used by communes. Before the Land Law was amended in 1993, many localities, especially in the northern and central provinces, had used a fraction of farm land higher than regulated level, commonly 8-10%, even higher in some communes. Meanwhile in the South, due to features of farm land, cultivation habits and management of local government, there is no "public land" as ruled by the Government. Therefore, after the 1993 amended Land Legislation took effect, the local People's Council and People's Committee have adjusted the communes' public land area in compliance with law. However, there is still a gap in decision and execution and on the whole, only a few localities comply with the Land Law.

According to the General Department of Statistics' master survey on rural areas and agriculture in 1994, up to July 1, 1994 (a year since the Land Legislation was effective), the whole country granted 78% of total farm land, 84.3% of crop land and 60.5% of perennial growing land to households for long use in line with law. That implies there is still 22% of total farm

land and 15.7% of crop land employed by the commune authorities, farm cooperatives, and state-owned farms. In localities having no state-owned farms, most of agricultural and crop land area has not yet been granted to households but used by the commune authorities and farm cooperatives for public utility projects.

The analysis of the figures from the survey on rural areas and agriculture in 1994 indicates the percentage of farm land earmarked to commune authorities across the city accounts for 5.33% or 316,501 hectares, 234,000 ha (74%) of which is leased to farmers, and 82,000 ha (26%) directly managed and exploited by the communes and farm cooperatives under various forms. These fractions are very

64/CP concerning land resource for the construction of public projects in communes is strongly divergent among areas and localities, especially between the southern and northern provinces and the central coast. The difference still occurs in provinces of the same region and districts of the same province. In the same mountainous area and midland, the fraction of farm land used by the communal authorities is around 1% in Hà Giang, Lạng Sơn and Bắc Giang Provinces while 21.8% in Lai Châu, 18% in Lào Cai, 26% in Yên Bái, 21% in Sơn La, 9% in Vĩnh Phúc and 8% Hà Tĩnh. In the same Hồng River Delta, the land area for the government use accounts for 2.58% in Hà Nội, and 5.9% in Hải Phòng Province while

# MANAGEMENT AND USE OF 5% LAND RESOURCE IN RURAL AREAS

## FACTS AND TRENDS

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different among areas, remarkably the fraction of land used by communal government and cooperatives is 11.98% in northern provinces, including 13.69% in mountainous area and midland, 6.76% in the Hồng River Delta, and 14.79% in the former fourth zone. In southern provinces, only the central coast has many farm cooperatives, here the percentage of farm land retained for public utility is as high as northern provinces. The average fraction of the whole region is 7.84%, highest in Phú Yên Province (15.8%) and lowest in Ninh Thuận Province (2.58%). The fraction is too low in remaining areas of the south: southeastern provinces 0.42%, the Mekong Delta 0.13% and the Central Highlands 2.92%.

The above evident shows the implementation of the Land Legislation and the Government's Decree

8.9% in Hà Tây, and 7.9% in former Hải Phòng. In provinces of the former fourth zone, the gap is wider: Thanh Hóa 23%, Nghệ An 5.8%, Hà Tĩnh 14%, Thừa Thiên-Huế 14.7%. Regarding central coastal provinces, the fraction is highest in Bình Định, 15%; lowest in Ninh Thuận, 2.58% and Phú Yên 3.76%. In the Central Highlands, the highest figure can be found in Kon Tum, 11.3% while the fraction of Lâm Đồng and Daklak is 1% only. In compliance with the Land Legislation and the Government's guidelines, the 5% land retained to the communal government for public welfare shall be used effectively, when it is not yet used for public projects, the authorities shall lease it to farming households and the rent shall be used for public purpose. Many provinces, districts and communes have complied strictly with these regu-

lations and gained the people's trust. Nevertheless, some local authorities have loosened their management and used the land unsuitably, so the efficiency of using 5% land for public utility remained low. Some areas did not lease off land to households, in contrast, they earmarked a part to organizations and individuals. The combined land area directly controlled by the communal governments amounts to 69,000 ha, or 1.39% of the country's total farm land. This event is prevailing at various levels in southern and central provinces: northern mountainous areas and midland 1.9%, the Hồng River Delta 5.69%, the former fourth zone 3%, and the central coast

As for the farm land, the most important is rice growing land. The Government has forbidden the change into another kind of land to ensure the national food security. Regrettably, in the past years this land resource has not been managed and used in compliance with the Prime Minister's instructions. The obvious evidence is the land area retained for the communal governments and cooperatives remains large, some areas' fractions exceed the Land Legislation provision: According to statistics from the master survey on rural areas and agriculture in 1994 conducted by the General Department of Statistics, communes in the whole country managed and

waste of this land resource, mainly for growing wet rice. Some communes and cooperatives did not use the land for public projects but changed it into residential land in various forms, so this should be criticized and settled strictly.

The cultivation land directly used by communal governments and cooperatives still takes a large share: 53,400 ha or 2.74% in southern provinces, including mountainous areas and midland 1.9%, the Hồng River Delta 1.41%, the former fourth zone 5.84%, and the central coast 2.87%. Those provinces with higher fractions also face old-fashioned agricultural cooperatives which slowly change into services such as Yên



2.05%. In some provinces, the figure is rather high such as former Hải Hưng, Hà Tây, former Nam Hà 6.7% and Hà Bắc 6.7% of their total farm land. In central coastal provinces, due to the remains of the former compulsory merging of farmers' fields into cooperatives, the land area used by local government and cooperatives is still larger than the amount of the southern provinces. The average figure of this region is 2.05% (11,591 ha), highest in Bình Định 6.41% (2,460 ha), Quảng Nam 2.95% (2,045 ha), Quảng Ngãi 2,608 ha and Bình Thuận 2,808 ha.

The communal governments and farm cooperatives' use of public land is not effectual because there are no actual owners. Notably, part of that land resource is misused, it is even sold by corrupted officials of governments and cooperatives for illegal profits (in case of suburban communes of Hà Nội, HCMC, Vũng Tàu City, some communes of Thái Bình and Hà Tây Provinces, and another localities.)

used 144,000 ha of cultivation land, accounting for 2.98% of the total (4.8 million ha), including 69,000 ha directly exploited by communal governments and farm cooperatives (1.43%). The southern and central provinces face higher fraction of land under the management of communal authorities and cooperatives than that in the southern provinces and the Central Highlands. The average fraction of the North is 6.07% including mountainous areas and midland 3.97%, the Hồng River Delta 6.26%, former fourth zone 9.47%, and the central coast 5.14%. Some provinces face unexplainable higher fractions such as Yên Bái 18.7%, Quảng Ninh 9.45%, Vĩnh Phú and Hà Bắc above 8%, Hà Tây 8.6%, former Hải Hưng 7%, former Nam Hà 9%, Thanh Hóa 11.2%, Hà Tĩnh 15.3%, Thừa Thiên Huế 7.8%, Bình Định 10.6%, and Quảng Nam 5.14%.

The fact that communes retain farm land over 5% of the total not only violates the 1993 Land Legislation but also causes serious

Bái 15.9%, Quảng Ninh 7.1%, former Vĩnh Phú 3.65%, Hải Phòng 3.54%, former Nam Hà 2.45%, Thanh Hóa 6.48%, Hà Tĩnh 10.51%, Quảng Bình 7.23%, Thừa Thiên Huế 5.8%, Quảng Ngãi 3.98%, Bình Định 3.64% and Bình Thuận 3.83%. The land directly used and managed by communal governments and cooperatives gives a low yield including the fertile rice land in the Hồng River Delta. Most of this land is granted to mass organizations such as the Women's Association, the Farmers' Association, the Youth Union, the Fatherland Front, the Veteran's Association, etc. They used and paid products to the commune in line with the contract's terms which was much lower than the farmers' rent. The payment was also arbitrary and not monitored carefully, thus easily lost, affecting the people's trust in the communal government and cooperative. Although, this was not widespread in communes having much public land, but it had bad effects on the government officials and farm cooperatives in the past

years.

Part of the land managed by the communal government and co-operative is used for building and upgrading rural infrastructures in various forms and at different levels such as rural roads, irrigation projects, schools, health stations, kindergartens, electricity stations. This purpose is an appropriate advocacy of the Government. However, the implementation has many shortcomings, mainly in communes and villages. The main deficiencies include: lack of detailed plans causing wastes in using farm land, especially rice land; desire of large-sized projects but limited budget and demand thus losing time and land prodigally. These shortcomings occurred in many communes and reduced the efficiency of the 5% land resource.

Nevertheless, it is noteworthy that this is not only land waste in construction. More importantly, many communes exchanged land for infrastructure carelessly, leading to loss in the local 5% land and the infrastructure not upgraded as expected. In case where the communal budget remained short, the decision on exchanging land for infrastructure was correct. But the mistakes arose in the process of implementing that decision and from the communal financial management. It was prevalent that some communal officials and farm cooperatives themselves set regulations on the method and price of land exchange (sales in fact) as well as used those proceeds, made no open discussions, no consultation of the upper agency's opinions and publication. This also resulted in many people's denunciations and complaints in the past years.

Finally, localities retaining much land for the communal government and farm cooperative's use are also those which did not manage and use land well. This event took shape not only in northern provinces but also in southern ones (the central coast). In southern provinces, communes did not earmark 5% land for public works in compliance with the Land Legislation. Here happened new interesting issues, that is when the Government and the communal authorities needed land for public works, they had no land, and found it very hard to clear the site. Because of roads, irrigation works, and schools built on the land that the Government has granted to the farmers for long-term use, there are farmers losing land but not accepting sat-

isfactory compensation. The survey on the Mekong Delta's farmers obtaining no or less land conducted by the Hà Nội University of Economics in 1998 revealed the whole delta had 1.4% of landless households due to the above reason, including 4.1% in An Giang, 2.9% in Sóc Trăng, Tiền Giang 1.6%, and Bến Tre 1.6%. The evidence showed every locality demanded land for public projects. As a result, the 5% land retained for this purpose is appropriate. So far, southern provinces, including southeastern ones and the Mekong Delta, has faced difficulties in compensation paid to the people for the construction of rural infrastructure. The fact poses the question: Should there be 5% land resource even in this region? The Mekong Delta is the biggest rice basket of the country, but it faces poor infrastructures and no land to build and expand the existing network. So the management and use of 5% land should be considered not only in the southern provinces but also all over the country.

The trend of 5% land used for building public projects in the past years has made good progress. The fraction of land used and managed by communal government and farm cooperatives reduced from 5.33% in 1994 to 3.80% in 1997. According to work papers of the General Department of Land Registration in 1998, the country had 313,800 ha of farm land, including 198,200 of crop land used and managed by communes, mainly clustering in southern and central provinces (8.8% in the South, 9.2% in the central coast, and 0.38% in the Mekong Delta).

It is more interesting that the land area retained for the commune's use and management has increased rapidly in the past three years. In fact, the actual land area did not rise, but the increase was due to re-measuring. That implies the figures of books in 1994 do not reflect the real 5% land area of each commune, and they are much lower than the actual ones. A part of public land is earmarked for the commune's management was not put in books, so when re-measuring the land in 1997, it was discovered and brought back to the public land. The trend of public land omission was prevalent, including farm land and crop land. For example, the central coast had 544,000 ha of farm land, including 35,900 ha managed by communes and co-

operatives in 1994; 639,000 and 59,100 respectively in 1997, increasing by 17.5% and 63% as compared with 1994. While the difference in the total land farm between 1997 and 1994 is 17.5% only, the gap in the land managed by communes amounts to 63%. This shows even in this area, communes and old-fashioned cooperatives has used and managed more public land than the figure reported and infringed upon the Land Legislation.

From the analysis of facts and trends of the land area retained for communes and cooperatives' management and use in the two areas facing many old-fashioned cooperatives with slow renovation - the Hồng River Delta and the central coast, some conclusions may be drawn as follows:

*First*, the public land area earmarked for communes and cooperatives' manage and use exceeds the limit regulated in the Land Legislation and tends to increase in terms of absolute quantity and ratio.

*Second*, the omission of farm land area earmarked for communes and cooperatives' management and use in the past years is prevailing in localities. As a result, when inventorying and re-measuring, this land area is higher than the figures in previous reports.

*Third*, the difference between the re-measured land area and that in local reports is rather large. This fact discloses that the management, and inventory of farm land on the whole and the land allocated to communes and cooperatives in particular, has faced many shortcomings.

*Fourth*, the losses of tax imposed on farm land has remained large in the past years because a part of land has not been put in local tax registration books.

*Fifth*, there is no transparency in functions, tasks and obligations in management and use of local farm land between communal governments and management boards of cooperatives. The land area granted to communes for public projects in compliance with the Land Legislation and the land area earmarked for cooperatives' management are not determined distinctly, still obscure causing large waste. It is not in compliance with the Land Legislation and the Government's regulations to transform a part of 5% land into the commune and cooperative's own resource.