

# Creating an enabling framework for sustainable and affordable water services

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## Sammendrag

### **Etablering av legalt og institusjonelt rammeverk for bærekraftig drikkevannsforsyning.**

COWI har gjennom 10 år arbeidet med kapasitetsutviklingsprosjekter i vannforsyningssektoren i Laos. Denne artikkelen refererer til erfaringene innen juridiske og institusjonelle reformer og sammenhengen mellom disse. Reformen av det ene fungerer ikke uten den andre.

Da COWI startet arbeidet var det mye som manglet av relevante lover og forskrifter. Noe eksisterte, men det som stod skrevet ble ofte ikke etterfulgt i det virkelige liv. Det var en stor utfordring å overkomme denne praksisen og det var nødvendig at konsulentene sikret deltakelse og eierskap hos kunde og lokale partnere, og at de følte ansvar gjennom prosessen.

Noen av de antakelsene som ble gjort ved planleggingen av prosjektene måtte revurderes og dette medførte også at risikostyring etter hvert ble gitt en høyere prioritet. Forsinkelser og omveier oppstår og må håndteres gjennom tett kommunikasjon med lokale partnere. Det er viktig å ikke gjøre ting for komplisert og i henhold til våre egne standarder. Vi har en tendens til å glemme vår egen norske erfaring og vi må huske at det har tatt oss mange tiår å komme dit vi er i dag innen vannforsyningssektoren.

## Summary

COWI has worked with water sector capacity building projects in Lao PDR from year 2000. The article refers to the experiences in legal and institutional reforms and the linkage between these. One cannot function without the other.

When COWI started working some of the framework was missing. Other parts existed but what was stated in the regulation was not implemented in reality. It was a significant challenge to overcome this practice, and it meant that

the consultant had to ensure that the client and local partners was participating, taking responsibility and made accountable throughout the process.

Some of the assumptions made during project planning had to be revisited and risk management is given a much higher priority in project development than before. Delays and detours happen and must be handled through close communication with local partners. Do not make things too complicated and according to our standards. We tend to forget our own Norwegian experience and we must remember that it has taken decades for us to reach where we are today in the water sector.

## Background

COWI has broad experience with institutional development projects in the water sector, including water supply and wastewater, and in the solid waste sector. From 2000 until 2009 in Lao Peoples Democratic Republic (PRD) COWI completed two large institutional capacity building projects in the water sector with Norad funding and a World Bank funded study on Private Sector Participation. Arne Dahlen was team leader through this period and Birgit Farstad Larsen participated from 2005 as a technical advisor for planning, operation and maintenance of water supply systems.

The projects comprised of several components which will not be described in detail in this article. The authors would rather focus on the overall goal of achieving sustainability and affordability in the sector, and the necessity of estab-

lishing strong public entities to manage and monitor the water supply sector with competent service providers (operators). The case is Lao PDR, but assumptions, challenges and lessons learned will have broader interest to other Capacity Building projects as well.

The Capacity Building projects were implemented in parallel with Asian Development Bank (ADB) funded investment projects covering a total of 27 water supply and sanitation systems for urban centres in Lao PDR. ADB has initiated a new package from 2009 of additional 10 systems.

## Country characteristics Lao PDR

Lao PDR is a communist country with political systems and institutions that are changing very slowly. Although stating that they want to reform the sector, political considerations are most of the time overriding rational decisions on all levels. In this situation reforms are slow and take long time. "Take one step at the time" became our slogan during the implementation of the projects.

In 2004 the NGPES<sup>1</sup> and later the SWAp<sup>2</sup> introduced holistic perspectives to development of urban infrastructure including water and sanitation. SWAp was introduced following the development of the draft Urban Water Supply Strategy and Investment Plan (UWSIP). Before this development was uncoordinated and single projects were often characterised by the preferences of the donor involved.

<sup>1</sup> National Growth and Poverty Eradication Strategy

<sup>2</sup> Sector Wide Approach



Figure 1. Ou Tai Northern Lao PDR July 2005.

The legal (regulatory) framework in the water sector was very weak as Lao PDR is more ruled by decree than by law. Laws may be developed, approved by the National Assembly and put into force. Then they may lay dormant for years because the necessary institutional reforms with monitoring and control functions to enable the laws to become operational are not developed. The Water Law is one example of this dilemma and only recently (2009) it was acknowledged that the law would only be effective if it was coordinated with the institutional reforms initiated by the capacity building projects.

### Content of projects

The first project - *Capacity Building for the Water Supply Sector (CBWSS)* implemented from the end of 2000 to beginning 2005 included preparation of legislation for the Water Supply Regulatory Office (WASRO, previously named WASA) in a form of a Prime Minister (PM) Decree (No 191/2005). In addition other documents were prepared, hereunder; a national water tariff policy, issued by the Minister and approved in a PM Decree, regulatory accounting guidelines for the provincial water companies (PNPs<sup>3</sup>), guidelines for non revenue water monitoring and management, tariff determination guidelines with PNPs tariff

<sup>3</sup> Provincial Nam Papas

review for 2005 – 07, customer relations and complaints procedures for WSRO and the PNPs, annual sector performance reports from 2002, a regulatory database on PNPs performance, and competence improvement of key WASRO staff in addition to capacity building assistance to the project management unit of the main ADB supported investment project and to the PNPs receiving investment support.

In the second project - *Institutional Strengthening of WASRO and Water Supply Division (WSD)* from 2005, WSRO prepared a number of regulatory documents and guidelines with the assistance of the consultant, hereunder; licensing of service providers, guidelines on minimum service levels and performance targets (a performance audit was carried out for 9 of the 17 PNPs) and on how to deal with customers in debt, regulation in accordance with PM Decree 191, on upgrading of water supply quality in compliance with established standards, and communication for regulators. Issuing of the annual sector performance reports was continued during the project period and WASRO has successfully kept this up after completion of the project in 2009 (the 2010 report is presently being prepared). A new tariff review for the years 2008 – 10 was conducted and the 17 PNPs are now in general following recommended tariff structures and levels.

For WSD the assistance covered; development of technical and management guidelines for urban water supplies with a communication strategy for dissemi-

nation of the guidelines, comments to a draft water supply law, and a sector resource centre and reference library. The project was even extended with additional resources to include finalization of an urban sector strategy and development of an urban wastewater sector strategy and investment plan. The urban sector strategy has now been formally approved by the Government and the wastewater strategy is presently in the process of approval. The comprehensive training program of the project covered a long range of staff, including training in key subjects, English training, study tours, external courses and participation in regional and international conferences.

The present ADB sector investment project (the third) provides bridging assistance to some of the mentioned components until the next capacity building project (the final) is formally approved and made operational. The next project - *Capacity Building for the Water Sector* will in principle be a continuation of the support of sector reforms under the previous projects and will concentrate on sustainability issues related to previous investments and achievements in the institutional, legal and environmental frameworks.

### **Creating an enabling institutional and regulatory framework for sustainable and affordable water services**

The previous chapters introduced the strong linkage between regulatory framework and institutions (including human resources). The experiences in Lao PDR

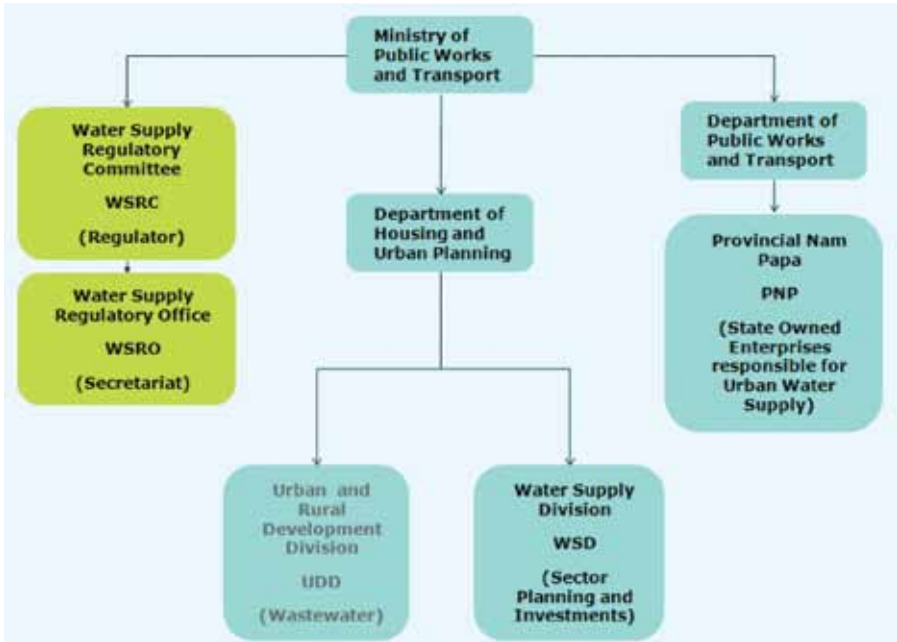


Figure 2. Ministry of Public Works and Transport (MPWT) 2009.

underline the assumption that one cannot function without the other.

When COWI started working in 2000 some of the framework was missing. Other parts existed but there were inconsistencies between what was stated in the regulation and how this was implemented in reality. It was a significant challenge to understand and overcome this practice, and it meant that the consultant had to ensure that the client and local partners was participating, taking responsibility and made accountable throughout the whole process. This took time and patience!

The key was to establish a functional and respected water sector regulator. The process of establishing the regulatory framework and its regulator in the water

supply sector took many years. To establish the regulator (WSRC with WASRO) as an autonomous institution was not possible and it became part of a department in the Ministry, see figure 2.

The intention to seek for an autonomous body is somewhat unusual in Asia, but not in the South-East Asia region. Cambodia started work on establishing Phnom Penh Water Supply Authority (PPWSA)<sup>4</sup> in year 1993. With the assistance of external funding agencies, particularly the ADB, and through internal reforms, PPWSA transformed itself into an efficient, self-financed, autonomous organization. The reforms involved a significant “cultural change” and experiences

<sup>4</sup> Source: Asian Development Bank <http://www.adb.org/water/actions/cam/PPWSA.asp>

from PPWSA became an important inspiration for Lao PDR.

During the implementation and afterwards it was necessary to consider whether the project design and scope was formulated in a relevant way within the given frameworks in Lao PDR, i.e. the political, legal, institutional, socio-economical and environmental. All these frameworks represent potential risk factors that are important for a water sector project to achieve its intended outcomes. There was not sufficient emphasis on these risk factors during the planning phase, but the situation improved and risk management is given a much higher priority in project development than before.

### Assumptions

The projects were based on a few assumptions related to the pace of an institutional reform, that it would be possible to establish an autonomous regulator, and to implement corporate planning and commercialise operations. It was also assumed that the qualifications of staff in key positions would match the requirements of the projects and that it would be possible to recruit new staff with basic qualifications.

The projects also involved management of information and assumed that there would be availability of basic computerised accounting systems, database and stores systems.

These assumptions may have been too optimistic since the political system in Lao PDR is quite rigid and institutions are changing very slowly. Corporate

planning and commercial operations was new to the water operators, the PNPs, and building capacity had to start by taking into account that the existing staff was not recruited based on these principles. In addition, the real needs and aspirations of the PNPs with regard to computerised accounting and other systems were not reflected during project planning and this emphasised the need for end-user consultations and basic training during project implementation<sup>5</sup>.

### Challenges

During project implementation it became clear that there were discrepancies between the project description and the real situation regarding the task of preparing, getting approval and implementing the decree (No 191/2005) that would define mandates of the regulator (at the time called WASA). The concept of “full cost-recovery” was entirely new and this resulted in challenges in understanding and implementing sustainable tariff structures. The expertise among current staff was not in line with the requirements in terms of technical, legal and financial skills, and recruitment of new staff was made difficult due to government bureaucracy and the low salary levels.

As mentioned, the decree which was assumed to give WASA its legal basis to operate as a regulator was developed under the projects and issued in July 2005. However, WASA was never mandated by the Ministry according to this Decree

<sup>5</sup> Some of the PNPs had not even started with double book-keeping

and therefore did not take upon this duty until 2009 as WASRO.

## Achievements - Sustainability and Affordability

Looking back over the past ten years of working for reforming the urban water supply sector in Lao PDR we see that some of the things could have been done differently. Did we as project implementers do the right things within these frameworks and the project design and scope? We found that the solution was to work under the principle that our local partners had to be fully responsible for the processes initiated with the consultant's guidance and support.

Could we have done more to influence the frameworks beyond development of technical and economical and financial guidelines and regulation? We managed to develop dialogues on several levels and through these and training activities as an example we managed to develop broad understanding for corporatization of the water companies (PNPs) and the need to commercialize operations in order for them to expand and improve services since there is no internal resources for subsidized water supply in Lao PDR. The development of annual water supply sector performance reports from 2002 strongly supported this and is considered a great achievement and success.

Despite the challenges the projects achieved some very encouraging developments:

- WASRO (previously WASA) is established and operational as the regulator in the sector with a high level

Water Supply Regulatory Committee (WSRC), chaired by a vice minister, with regulations in place.

- The PNPs are in a process of corporatization. Developing business plans, cost recovery schemes and using income for O&M purposes.
- A tariff policy is developed and in the process of being generally accepted and implemented.
- Water supply technical and management guidelines are developed and being used as reference frame for planning of new projects. Uniformed planning and construction practices will ease financial and technical follow-up and predictability.
- Urban Sector Strategy (USS) and Urban Wastewater Strategy and Investment Plan (UWSIP) are in place. The intention is to fully coordinate with the Water supply strategy and investment plan (WSSIP), and elevate this to the political level of the MPWT.
- The Prime Minister's Office - Business Promotion Office has taken interest in the water sector regulation and may use these experiences for developing regulation in other sectors like telecommunications and electricity supply. This indicates high level political acknowledgment of the contributions to development in Lao PDR by the projects.

Last but not least, staffs have increased their competence and understanding of the importance the legal and institutional framework, and to divide between



sector regulation and sector investments.

After the last sector capacity building project was completed in the middle of 2009, contact is still maintained between the consultants and key people of the Lao PDR institutions we worked with, including WASRO. It was therefore natural to communicate with our friends in

Lao PDR in connection with this article. Comments provided by the present Director of WASRO, Mr Somvan Khameung indicate that the sector regulatory framework is taking hold and that it has all chances of being sustained. Excerpts of his comments is shown below.

***Mr Somvan Khameung, Director of Water Supply Regulatory Office (WASRO), Lao PDR***

*The Water Supply Regulatory Committee (WSRC) with its Secretariat WASRO is operational and regular meetings are conducted. The annual water sector performance reports are being presented and issues of concern are discussed in national meetings with all PNPs and other stakeholders, the latest two regional meetings are being held as this article is being written, May 19 - 20 2011. These meetings are now financed over the ordinary government budget. A planned study tour to Cambodia this year will also be financed over the government budget. Private water supply service providers (small towns water supply schemes) are also being incorporated in the regulatory regime of WASRO.*

*With regard to formalization of the regulatory framework, the guidelines on Service Performance Targets for Water Suppliers and Regulatory Monitoring of Service Levels were finalized and approved by WSRC in June 2010 with Service Performance Targets and Service Levels for individual service providers under the regulatory regime of WASRO, and the final draft for Ministerial Decision on Licensing for urban water supply service have been submitted to the cabinet for consideration and approval.*

### **Lessons learned - Sustainability and Affordability**

Consultant should act in a more advisory capacity to the staff and not actually carry out all the work. Local partners need to be fully responsible for the processes initiated with the consultant's guidance and support to ensure ownership and adaptation to local conditions. If these aspects, and approval of legal do-

cuments through the appropriate channels, are undermined there is a huge risk that what is stated in the documents is not implemented in real life.

Risk management needs to be prioritised and ensure that the actions are followed up and that lack of application has consequences.

Internal funding mechanisms (like sector development fund) can reduce dependency of external funding as part





*Figure 3. Meeting at PNP in Pakse Province 2006.*

of an exit-strategy. This has been proposed to be included as a component of the oncoming third (and final) sector project with Norad funding - the Capacity Development for the Water Sector project.

Reforms take time! Delays and detours happen and must be handled through close communication with local

partners. "Simple is better!" Do not make things too complicated and not necessarily according to our standards. In development work in far away countries we tend to forget our own Norwegian experience - we must remember that it has taken decades for us to reach where we are today.