

REPUBLIC OF YEMEN

MINISTRY OF AGRICULTURE AND IRRIGATION

IRRIGATION IMPROVEMENT PROJECT

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WORKING PAPER NO 32

DRAFT MODEL

INTERNAL RULES & REGULATIONS

IRRIGATION COUNCIL

(BASED ON IRRIGATION COUNCIL BY-LAWS)

AND

FINAL BY-LAWS IRRIGATION COUNCIL

April 2005

 **ARCADIS EUROCONSULT**

in association with



Halcrow

YEMEN ENGINEERING GROUP

Final By-Laws Irrigation Council

For Irrigation Council in Wadi [name], Governorate [name]

First Chapter Nominations and Definitions

- Article (1)** These By-Laws are named By-Laws of Irrigation Council in Wadi [name], Governorate [name]
Article (2) For the purpose of applying these By-Laws, the following stated utterances and phrases have the following meaning, unless the context and/or presumption state another meaning

<i>The Republic</i>	Republic of Yemen
<i>Concerned Ministry</i>	Ministry of Agriculture & Irrigation
<i>Concerned Minister</i>	Minister of Agriculture & Irrigation
<i>The Ministry</i>	Ministry of Water & Environment
<i>The Minister</i>	Minister of Ministry of Water & Environment
<i>Water Law</i>	Water Law No. 33 for the year 2002
<i>Local Authority Law</i>	Local Authority Law No. 4 for the year 2000
<i>Executive Procedures</i>	The Executive Procedures of the Local Authority Law by Republic Decree No. 269 for the year 2000
<i>Group</i>	Water User Group (WUG), which is formed on the basis of the smallest hydraulic unit (i.e. tertiary canal, earthen bund - ma'aqam) or on more than one tertiary canal/maqam that are adjacent to each other.
<i>Association</i>	Water Users Association, which includes a number of WUGs with its jurisdiction limited to an area below the main irrigation canal/ or individual Ogma level.
<i>Irrigation Council</i>	Irrigation Council is established by Governor's Decree at Wadi level; its composition includes representatives of the Local councils (Governorate and district levels), (all) WUAs, as well as water/environment related Government organizations and Prosecution Office in the Wadi area.

- Article (3)** Irrigation Council is founded in Wadi [name], Governorate [name] according to (a) the Local Authority Law No. 4 for the year 2000 Article 168, (b) the Water Law No. 33 for the year 2002 Article 10, (c) according to the Decree of the Governor [name] No [number] for the year [year] and (d) according to the Article No. 294 of the Executive Procedures of the Local Authority Law, issued by Republic Decree No. 269 for the year 2000, where it is stated that the relevant Executive Departments at Governorate level, under the supervision of the Local Council of the Governorate and according to the prevailing laws, can act as the Central Authority and decide on the issuance of any organizational procedures.

In order to organize the irrigation in the Republic, the Irrigation Council carries out its tasks and activities according to the rules set out in these By-Laws. The Irrigation Council is hereby considered approved and has its own legal personality from the date of this Governor Decree.

Article (4) Objectives of the Irrigation Council

The Irrigation Council activities aim at providing services which are related to the supply of irrigation water and which services shall benefit the water users at wadi level; taking into account the plans and general policy of the Government. Specially, it's services aim at:

1. Promotion of irrigated agriculture within the area of the Irrigation Council's jurisdiction;
2. Protect the water users rights, especially in relation to the organization/ distribution of floodwaters within its area of jurisdiction and to solve conflicts, which may arise among the water users.
3. Ensure the fair distribution of floodwater between the different canals and areas in line with agreed water rights. The Irrigation Council will keep records of these agreed rights, as they apply to the area, which is entitled to irrigation water, timing of water

- deliveries, water allocation and distribution over the different channels, rules for using smaller and larger floods, rules on second irrigation turns, rules for water supplies to particular crops, maintenance of embankments and bunds and other rules;
4. Ensure the quality and continuity of operation & maintenance (O&M) works and the rehabilitation within all main and secondary distribution infrastructure, including diversion structures, canals, gates; it also includes silt removal, vegetation clearance and protection of the wadi embankments;
 5. Ensure execution of the construction works to control floods;
 6. Monitor the construction of new irrigation projects and improvement of existing projects;
 7. Intermediating in obtaining funds for activities related to works for establishing, managing and improving irrigation projects/infra structure.

Second Chapter
Tasks & Authority of the Irrigation Council

Article (5) The main tasks of the Irrigation Council

1. Setting a general policy for the whole wadi for achieving the demand of the water users and promoting the distribution program of irrigation water and increasing its efficient use;
2. Preparation and approval of a wadi water management plan, which includes flood water/base flow in line with agreed water rights;
3. Preparation, approval and supervising the implementation of the annual irrigation plan;
4. Monitoring the water distribution for the modern and traditional system at wadi level;
5. Monitoring any defects related to the execution of the wadi water management – and annual irrigation plan or any cause, which may damage the irrigation infrastructure;
6. Review and approve the annual maintenance plan, which is prepared by the responsible Government Authority for O&M. When major repairs are required, the Irrigation Council will discuss this with the related Government Authority representatives and monitor the execution thereof;
7. Approve the O&M contributions, which each WUA will collect from the benefiting farmers to ensure the regularity of the O&M works at wadi level and approve the current expenditures of the WUA in this field;
8. Inspect, together with the responsible parties, the implementation of the annual O&M activities for all irrigation infrastructures, according to the approved plan(s);
9. Supervise the operation of diversion structures or any other irrigation infrastructure, which are operated by the responsible Authority, to make sure that the distribution of flood water/base-flow is implemented according to the agreed annual wadi water management plan;
10. Monitor the implementation of annual maintenance works to ensure that the maintenance of irrigation infrastructure is done according to the Main System O&M Manual and the agreed annual maintenance plan;
11. Encourage the use of improved irrigation techniques, agriculture development methods, the training of water users in these aspects, assist in providing loans and other financial support and assist in the distribution of agriculture inputs as well as marketing of these products;
12. Ensure the unity among WUAs and its members, solve conflicts caused by the distribution of water among the water users and represent the WUAs in any conflicts with the third party;
13. Promote and exchange administrative and technical experiences with local and international Irrigation Councils on water usage in the irrigated areas, and establish communication links and exchanges of information flow, particularly on land reform,

- with national and international agencies;
14. Assist in providing statistical information and data on the irrigated areas, when required by the official Authorities (Ministry of Agriculture & Irrigation, Development Authorities and/or other relevant organizations) for the purpose of designing improvement programs to promote the social and economic situation for the water users;
 15. Promote the trade of agricultural production and internal and external marketing links and function as a medium for exchanging services and agricultural production among the water users in the Republic of Yemen;
 16. Encourage the use of new productive systems in order to protect the natural resources and prevent pollution.

Article (6) Authority of the Irrigation Council

The Irrigation Council is considered to be the High Executive and Administrative Authority of all water users. It will be responsible for applying the Irrigation Council's By-Laws and its Executive Procedures and implement its decisions. The Irrigation Council will have the following powers:

1. Sets a general policy of the whole wadi, which applies to water users demand and ensures an equity in the distribution of water irrigation and increased water use efficiency;
2. Represents the water users (particularly the WUAs) as a united organization towards Government Authorities, private sector, international and local organizations in related to irrigation management, land use activities, water management at catchment level and/or groundwater extraction;
3. Prepares any Executive Procedures concerning O&M issues;
4. Ensure that adequate measures are taken by the responsible Authorities for protection during the flood season to avoid any human and material damage;
5. May receive contribution to achieve the different Irrigation Council's activities;
6. Imposes financial penalties on individual water users or water users associations for late payment of O&M contributions or on those who impede the agreed upon distribution of water or on those who damage the irrigation infrastructure;
7. Obtain advise from experts and invite them to their meetings, if required;
8. The Irrigation Council shall inform the concerned organizations, in case of any aggressive behavior or trouble which is causing or has caused damage at any wadi or irrigation infrastructure such as weir diversions and division structures, the random digging for wells and/or pollution of water or other things, which are against the Water Law and/or Environment Protection Law and request the Prosecution Office to present the violators to the Court and request for compensation of the damages that were caused by such behavior/trouble on water related infrastructure and/or environment on behalf all the beneficiaries in the wadi area.

Third Chapter

Structure of the Irrigation Council and its Administration

Article (7) The Irrigation Council is established by Governor's Decree. The composition of the Irrigation Council include the following:

1. The Chairman of the local Governorate's Council or any other person appointed by Governor. The Governor also appoints the deputy Chairman;
2. Representative of each of the Local Councils in the wadi districts.
3. Representative of each of the water/environment related Government organizations in the wadi area;
4. Representative of the Prosecution Office in the wadi area;
5. Representative of each WUAs in the wadi area.

Article (8) The Chairman shall preside over each Meeting, and the deputy Chairman shall deputize for

him in his absence. If both are absent, a Chairman shall be elected from the Irrigation Council from those present.

Article (9) All decisions of the Irrigation Council shall be taken by simple majority vote but when the votes are equal the Chairman shall have a casting vote.

Article (10) The General Meeting of the Irrigation Council:

The General Meeting of the Irrigation Council shall meet at least (6) times a year during the preparation of the annual plan, before the flood season and immediately after it. Or more often, if called for by the Director of the Executive Committee or by one fourth of the members of the General Meeting. The quorum for the General Meeting's decisions is that two thirds of its members should be present. Notice of the meetings shall be sent to all members at least (10) days ahead of the meeting and a copy of the notice shall be posted in the public places within the area of the Irrigation Council.

Article (11) Authority of the General Meeting of the Irrigation Council

1. The selection of Executive Committee of the Council;
2. The approval of annual O&M plan (s);
3. The approval of annual O&M budgets (both Governmental and WUAs);
4. Composition and roles of Standing Committee(s);
5. The approval of the casher tasks of the Executive Committee;
6. The approval of changes in the By-Laws and Internal Rules & Regulations of the IC;
7. The approval of changes in water allocations and water rights;
8. The approval of effective incentives and/or sanction and penalties;
9. The approval of appoint of any staff, including conditions of employment, if relevant;
10. The approval of a Federation with other Irrigation Councils or the participation in Water Zone Committee(s) or Water Basin Committee(s), as described under the Water Law;
11. The approval of the financial report that is submitted by Executive Committee;
12. The approval of the dissolution of the IC.

Article (12) The selection of Executive Committee of the Irrigation Council

During the annual meeting of the Irrigation Council, an Executive Committee is selected among the Council members by secret vote for a period two years that may be renewal. Its members should reside in the wadi.

Article (13) The Executive Committee members shall not be less than (3) or not be more than (7), two of them from the lower wadi area. The Executive Committee will have at least a Director, Secretary and Casher.

Article (14) Meeting of the Executive Committee

The Executive Committee will meet at least (2) times monthly at the Office of the Irrigation Council. During the flood season the Executive Committee will meet (2) times weekly. All members of the Executive Committee will be notified in advance of the meeting and the agenda of the meeting will be circulated. The quorum for Executive Committee decisions is that two thirds of its members should be present. Decisions of the Executive Committee will be recorded in its Minutes and circulated to the members of the General Meeting.

Article (15) Authority of Executive Committee

The duty of the Executive Committee is to fulfill the functions of the Irrigation Council on day-to-day basis on behalf of the entire Irrigation Council. The Executive Committee, in particular, will ensure the financial stability of the Irrigation Council, by ensuring that expenditures of the Irrigation Council are within reasonable limits and that all possibilities for income generation are explored. The Executive Committee will ensure that proper arrangement are made and implemented for the fair distribution of water and the adequate maintenance of the structures.

The responsibilities and powers of Executive Committee are as follows:

1. Prepare/monitor an annual budget and work plan;
2. Execute regular financial audits;
3. Implement activities to fulfill the objective of the Irrigation Council;

4. Supervise water distribution along the wadi;
5. Initiate actions against Water Users Associations, that, on unreasonable grounds, withhold payment of water contributions or penalties;
6. Resolve conflicts between concerned parties;
7. Actively involve in monitoring the implementation of rehabilitation/ improvements works in the wadi and prepare a plan with priorities for improvement in water infrastructure and water management;

Article (16) Establishment of Standing Committee(s):

Upon the decision of the General Meeting of the Irrigation Council, the Executive Committee will or may appoint Standing Committee(s) for (2) years that may be renewed to assist it in the fulfillment of its responsibilities as follows:

1. Finance Committee: the Finance Committee is formed by two specialized persons and their tasks will be to review expenditures and scrutinize the annual budget and financial statements;
2. Adjudication and Conflict Resolution: the task of this Committee will be to mediate and decide in conflicts between Water Users Associations or between the Water Users Associations and the Irrigation Council. The Adjudication & Conflict Resolution Committee will consist of at least (3) members of the Irrigation Council, one of which will be the representative of the Prosecution Office.

Article (17) Transparency

The Irrigation Council will ensure that all its proceedings are open and transparent. It will make its report available to any interested responsible party. The Executive Committee will publish the irrigation schedule in public places, the total costs required for O&M and the amounts paid by the water users.

Receipt vouchers must be issued to any one who pays any sum into funds of the Irrigation Council. A monthly statement shall be submitted to the Irrigation Council (by the Executive Committee); accounting for revenues and the money shall be delivered to the Executive Committee.

This monthly statement is open to scrutiny of any interested party. Any of its members will have access, if so requested, to its financial accounts and any contracts, signed by the Executive Committee.

Article (18) Disqualification of Members

The Members of the Irrigation Council and Executive Committee will be disqualified, in case of:

1. Loss of membership and employee status in the organizations they represent;
2. Non-payment of dues and/or the costs for O&M, or non-fulfillment of the labor contribution by the organization they represent;
3. Unfitness of mind and/or proven engagement in activities in contravention of objectives of the Irrigation Council/Executive Committee;
4. In case members of the General Meeting are absent four (4) times from the General Meetings, without sufficient reason given in writing to the deputy Chairman of the Irrigation Council;
5. Using the Irrigation Council/Executive Committee for individual political purposes, that is not supportive of the long-term interests of the Irrigation Council.

Article (19) Replacement of a Member

Whenever a vacancy occurs in the Irrigation Council/Executive Committee, through death, resignation or removal, the General Meeting shall appoint a successor for the unexpired term.

Fourth Chapter

The Capital and Financial Recourses of the Irrigation Council

Article (20) The Capital of Irrigation Council and its resources consist of:

1. Contributions, donations, loans and/or international and local aid;

2. The subsidies of the Government or any organization;
3. Returns from the activities of the Irrigation Council and services charges;
4. Returns from any possible (future) property of the Irrigation Council;
5. Any other resource generated, which is not in conflict with the prevailing Laws of the country.

Article (21) The Irrigation Council will follow the standard accounting system that is used in the Republic of Yemen.

Article (22) The accounting year of the Irrigation Council shall start and end with the accounting year for the Government. If the time remaining after of the establishing Irrigation Council is less than (6) months, it can add to the next year. At the beginning of the year the Irrigation Council will present to the General Meeting the final account statement for the previous year and it make clear the financial situation or loss account, if any, and the resources and finance expenditures and summary of the assets and property of the Irrigation Council.

Article (23) The Executive Committee shall authorize (2) of its members, one a treasurer, to operate their account (if any) by joint signature for any necessary amounts to be withdrawn.

Article (24) Services to non-WUA members: the Irrigation Council can present services to non-members of WUA. In this case these non-members shall pay an amount to the Irrigation Council in return of the services rendered to them, incremented by 100% of the normal fees imposed to the members of the Association.

Fifth Chapter

The Adjudication in the Conflict & Penalties

Article (25) The Adjudication & Conflict Resolution Committee of the Irrigation Council will arbitrate and adjudicate those cases that relate to the maintenance of the irrigation system. The plaintiff shall submit his plaint to the deputy Chairman of the Irrigation Council in duplicate, who shall assess the relevance of the complaint. Upon accepting the relevance of the complaint, the deputy Chairman shall enter the case in the Register of Agricultural Cases and appoint a date for the hearing of the case by the Adjudication and Conflict Resolution Committee. The plaintiff, after accepting his plaint, shall be required to pay a fee, specified by the Irrigation Council, and a receipt in duplicate shall be issued to him, one (1) copy of which shall be attached to the plaint and another shall remain in his possession. The deputy Chairman of the Irrigation Council shall be responsible for informing the defendant of the plaint. He shall require the defendant to sign the original copy of the plaint and he shall be given the other copy of the plaint. The adjudication shall solve the case as soon as possible particular in the agricultural season.

Article (26) **Penalties**

1. The Executive Committee will have the right to impose a penalty on the WUAs, when the WUAs do not pay their contribution in the cost of the O&M. This should be agreed/approved by two thirds of the Irrigation Council members;
2. The Executive Committee will have the right to suspend supplies to a watercourse in case of non-payment of the O&M or close the supply to a particular each in the irrigation system after (2) written notes and the suspension will take place after (2) weeks from last note;
3. In case the water right system in place is not adhered to, the Adjudication & Conflict Resolution Committee has the right to impose penalties on those who have broken the water right system as follows:
 - a. Unless decided otherwise by the General Meeting, any person, who for the second time intentionally draws off water, shall pay for each maad/fadan of land a fine amounting to (the amount shall decided upon by General Meeting of the Council);
 - b. Any person proved to have transgressed by breaking down a small or large magam, ogma or bank of a canal or constructs an unauthorized structure in such a way as to deprive an entitled person of his share of water, becomes liable to repair the damage and pay a fine to the Irrigation Council, ranging between [amount in

YR] and {amount in YR], according to the kind of transgression. In addition he shall pay to the deprived party the equivalent of the crop lost;

- c. When animals destroy the main canals or other irrigation related infra structure, the owner of the animal shall pay an [amount in YR] according to what is established by the General Meeting.

Article (27) The Water Users Association that is affected by the suspension or disagrees with the penalties imposed may appeal to the Adjudication and Conflict Resolution Committee. After hearing the complaint the Committee will reach a verdict within two (2) weeks.

Article (28) Any member of the Executive Committee or any other authorized person has the right to inspect, supervise or make any enquiry with respect to disputes regarding the sharing of water, operation, maintenance of wadi and irrigation infrastructure irrigation and/or flood protection works.

Sixth Chapter

Dissolution & Liquidation the Irrigation Council

Article (29) **The Irrigation Council may be dissolved for the following reasons:**

1. The completion of the limited period of Irrigation Council;
2. The non-achievement the certain objectives or the impossibility to achieve;
3. When two thirds of the General Meeting's members vote to dissolve;
4. If the number of members are decreased to less than 10 members or the WUA representation is reduced by 2/3 or more;
5. If there is a court judgment against the Irrigation Council because of breaking of the prevailing Laws;
6. If the Irrigation Council cannot continue its work because of bankruptcy.

Article (30) In case of liquidation of the Irrigation Council, the Irrigation Council shall appoint one desolator or more from its members, an accountant and representatives of the concerned Authorities to liquidate all assets and determine the commitment.

Article (31) The Governor of the Governorate can take the decision to dissolve the Irrigation Council based on the General Meeting's decision of the Irrigation Council to do so, and publish the dissolution and liquidation by audible and readable media of information.

Article (32) The Irrigation Council will have the right to appeal the decision of the dissolution before the concerned Court within a 60-day period after the date of publishing this decision and the Court will make a verdict on this appeal that is presented by the Irrigation Council according to the prevailing Laws.

Article (33) The Irrigation Council excises its technical and administrative activities according to the local Authority Law and Water Law and its two Executive Procedures.

Article (34) **Exemptions**

The Irrigation Council is exempt from

1. Any income tax;
2. Customs duties on import of equipment and spare parts that are requested to achieve the aims of the Irrigation Council;
3. Any other exemptions according to the prevailing Laws.

Article (35) In matters that are not covered in these By-Laws, the rules of the prevailing Laws will be applied.

April, 2005