

The Law on Combating Desertification Prevention in the People's Republic of China

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The Order of the President of the People's Republic of China (No.55)

The Law of Desertification Prevention and Control of the People's Republic of China was passed by the 23rd Meeting of the Standing Committee of the Ninth National People's Congress on August 31, 2001, and is hereby promulgated. The Law shall be in implementation from January 1, 2002.

Jiang Zemin
President
People's Republic of China
August 31, 2001

The Law of Desertification Prevention and Control of the People's Republic of China

(Passed by the 23rd Meeting of the Standing Committee of the Ninth National People's Congress on August 31, 2001)

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Chapter 1. General Principles

Article 1. To prevent land desertification, control desertified land, maintain ecological security and promote sustainable economic and social development, this Law is hereby laid down.

Article 2 Within the territory of the People's Republic of China, activities involving the prevention of land desertification and the control, development and utilization of desertified land must comply with this Law.

Land Desertification refers to the process of the natural expansion of deserts caused by climatic change and human activities, the destruction of vegetation on sandy soils, and the exposure of sandy soil.

Desertified land referred to in this Law includes land already desertified and land that has an obvious trend of desertification, the specific scope of which shall be determined by the National Action Plan for Combating Desertification (NAPCD) as approved by the State Council.

Article 3. Desertification prevention and control work shall observe the following principles:

- (1) Adapt the NAPCD according to local conditions, implement the NAPCD as scheduled and integrate regional prevention and control with the prevention and control in critical areas.
- (2) With the priority of prevention, combine prevention with rehabilitation, to undertake comprehensive control.

- (3) Combine protection and recovery of vegetation with rational utilization of natural resources.
- (4) Follow ecological principles and rely on scientific and technological progress.
- (5) Combine improvement of the ecological environment with poverty alleviation of poor farmers and herders.
- (6) Combine state support with local self-reliance, combine organization by the government with participation of civil society, encouraging groups and individuals to contract for desertification prevention and control.
- (7) Protect the legitimate rights of people who prevent and control desertification.

Article 4. The State Council and local governments in regions of desertified land should include desertification prevention and control in the national economic and social development plan, guaranteeing and supporting the implementation of the NAPCD.

Local governments at all levels in regions of desertified land should adopt effective measures to prevent land desertification, control desertified land, protect and improve the ecological quality of their administrative regions.

In regions of desertified land, the State shall establish targets for prevention and control of desertification, including a system of rewards and penalties based on the achievement of desertification prevention and control targets for the term of office of government administrative leaders. Local governments in regions of desertified land should report the status of their desertification prevention and control activities to the People's Congress of the same level and its standing committee.

Article 5. Under the leadership of the State Council, the concerned administrative department in charge of forestry in the Council shall be responsible for organizing, coordinating and guiding the NAPCD.

In accordance with the responsibilities as stipulated by the relevant laws and the division of responsibilities as determined by the State Council, the administrative departments in charge of forestry, agriculture, water resources, land resources and environmental protection and the concerned authorities for meteorology in the State Council shall specify and assume their respective responsibilities and closely cooperate to combat desertification.

In accordance with the division of responsibilities, local governments above the county level shall organize and lead the relevant departments under them to assume their respective responsibilities, closely cooperate with one another and work together to combat desertification their administrative regions.

Article 6. Organizations and individuals that use land shall be under obligation to prevent desertification of the land concerned.

Organizations and individuals that have already used desertified land shall be under obligation to rehabilitate the desertified land concerned.

Article 7. The State shall support scientific research on, and technical extension work of, desertification prevention and control, giving full play to the role of scientific and research departments and institutions in combating desertification, training specialized technical personnel in combating desertification, and enhancing the scientific and technological level of desertification prevention and control.

The State shall support international cooperation in combating desertification.

Article 8. Organizations and individuals that have made outstanding contributions to combating desertification shall receive commendations and awards. Significant rewards shall be given to those who have made notable contributions to the protection and improvement of ecological quality.

Article 9. Governments at all levels in regions of desertified land should organize the concerned departments to undertake dissemination of knowledge and information relating to combating desertification, increase public awareness and improve capacity for desertification prevention and control.

Chapter 2. Desertification Prevention and Control Planning

Article 10. The country shall implement the NAPCD. Activities relating to desertification prevention and control and activities relating to development and utilization within regions of desertified land must comply with the NAPCD.

Specific regulations concerning the schedule, steps and measures to reduce desertified land and to halt the trend of land desertification expansion should be developed and incorporated into the national annual and five year economic and social plans.

Article 11. Jointly with the concerned ministries of agriculture, water resources, land resources and environmental protection in the State Council, the forestry administration of the Council shall implement the NAPCD upon approval by the State Council.

In accordance with the NAPCD, governments of provinces, autonomous regions and municipalities shall implement plans to combat desertification for their respective administrative regions, based on the NAPCD, and report to the State Council or the concerned department designated by the State Council for approval.

In accordance with the NAPCD, governments at city and county level shall implement plans to combat desertification for their respective administrative regions, which will be implemented after being reported to, and approved by, the government of the immediate higher level.

Revision of plans to combat desertification must be subject to approval by the original ratifying organ. Without such approval, no organizations or individuals can change the plans.

Article 12. Establishment of plans to combat desertification should be based on natural conditions, such as the geographical location, type of land and vegetation, state of climate and water resources and degree of land desertification, as well as the ecological and economic roles that they play, in order to undertake classified protection, comprehensive control and rational utilization of the desertified land.

For large areas of desertified land that cannot be rehabilitated and developed or are not suitable for development and utilization due to the ecological needs during the planning period enclosed protection should be prescribed and implemented. The scope of an enclosed desertified land protection zone shall be determined by the NAPCD and the provincial, autonomous and municipal plans to combat desertification.

Article 13. Plans for combating desertification shall be linked to overall land use plans. The use of desertified land should conform to the overall land use plan of the government at the same level.

Chapter 3. Prevention of Land Desertification

Article 14. The Forestry Administration of the State Council shall organize other concerned agencies to undertake monitoring, statistics and analysis relating to the status of land desertification in the whole country, and regularly disseminate the results.

The forestry department or other concerned administrative departments of local governments shall be responsible for monitoring of the desertified land in accordance with the technical guidelines for land desertification monitoring, and report the monitoring results to the government of the same level and to the relevant upper level administrative departments.

Article 15. Upon the discovery of land desertification or the worsening of current desertification, the forestry department or other concerned administrative departments of local governments should report it in a timely manner to the government of the same level. Upon receiving the report, the government should order the concerned administrative department to stop the activities resulting in desertification and adopt effective measures to rehabilitate the land.

The concerned departments in charge of meteorology at all levels should organize monitoring and forecasting of droughts and dust storm weather, and upon discovering symptoms of droughts or dust storm weather, should report them in a timely manner to the local government. Upon receiving the report, the people's government shall adopt preventive measures, release disaster forecasts when necessary, and organize the concerned forestry, agricultural (animal husbandry) and related departments to take contingency measures, avoiding or mitigating the damage.

Article 16. In accordance with plans to combat desertification, local governments in regions of desertified land should allocate a certain percentage of land to establish

windbreak and sandbreak shelterbelts or networks and to plant perennial shrubs and grasses. The administrative department in charge of forestry shall be responsible for determining standards for survival rates and for rates of afforestation, as well as the specific tasks of afforestation, organizing implementation, specifying responsibilities and ensuring their achievement.

Except for tending cutting, no approval can be granted for cutting of protective shelterbelts or networks. Before tending treatments, replacement shelterbelts and networks should be established nearby.

No cutting will be allowed in areas where the regeneration of shelterbelts and networks is difficult.

Article 17. Cutting and digging of shrubs, medicinal plants and other sand-fixing plants on desertified land is forbidden.

County-level governments in desertified regions should formulate a vegetation management and protection system, strictly protect the vegetation, and according to the needs, establish vegetation management and protection organizations in sub-counties (towns) and villages, and identify the responsible management and protection personnel.

Within the extent of desertified land, all types of land contracts should include details of vegetation protection responsibilities.

Article 18. Local governments at all levels in grassland regions should strengthen grassland management and development. The administrative department in charge of agriculture (animal husbandry) shall be responsible for guiding and organizing farmers and herders to establish artificial pasture land, control animal numbers, adjust livestock composition, improve livestock varieties, promote livestock stabling and grazing rotation, eliminate rodent and insect pests, protect grassland vegetation and prevent grassland degradation and desertification.

The carrying capacity of livestock should be determined by grass production. The administrative department in charge of agriculture (animal husbandry) should formulate standards and regulations for carrying capacity, and organize their implementation

Article 19. The administrative department in charge of water resources in local governments in regions of desertified land should strengthen the unified allocation and management of watershed and regional water resources, and when planning watershed and regional water resources development and utilization should take into account the water demand for vegetation protection of the whole watershed and region. It should prevent the excessive development and utilization of ground water and upstream water resources that may lead to vegetation destruction and desertification. Upon approval, such planning plan must be strictly implemented.

Local governments at all levels in regions of desertified land should develop water-saving agriculture, animal husbandry and other industries and water-efficient techniques should be encouraged.

Article 20. No land cultivation should be allowed in desert margins, woodlands and grassland. For cultivated lands where there is a negative ecological impact, woodland and grassland restoration should be implemented in a planned and incremental manner.

Article 21. Proposed development and construction activities in desertified areas should undertake an environmental impact assessment in advance to determine the possible effects on local ecology and the relevant environmental impact report shall be submitted. The environmental impact report shall include provisions relating to desertification prevention and control.

Article 22. No activities likely to result in vegetation destruction will be allowed in enclosed and protected areas of desertified land.

Immigration and settlement is forbidden in the enclosed protection areas. For existing residents within these areas, local governments should organize planned relocation and ensure proper settlement of the relocated people. For residents awaiting relocation, the concerned department in charge shall make appropriate arrangements for them.

Without permission from the State Council or a department designated by it, no construction activities such as building of roads and railways shall be allowed in the enclosed protection areas

Chapter 4. Control of Desertified Land

Article 23. In accordance with the NAPCD, local governments at all levels in regions of desertified land should organize the concerned departments, organizations and individuals to adopt such measures as afforestation and grass planting, aerial seeding, enclosure of sandy lands and rational allocation of water for ecological use to restore and increase vegetation and rehabilitate land that is already desertified.

Article 24. The State shall encourage organizations and individuals to voluntarily undertake activities to combat desertification in the public interest by making donations or in other forms.

The forestry or other administrative departments of local governments should provide land and free technical guidance to desertification control activities in the public interest.

Organizations and individuals engaging in desertification control activities in the public interest should meet the technical requirements laid out by the forestry or related departments, and entrust the protection and management of planted woodlands and grasslands to others or submit them to the concerned department of local governments.

Article 25. Those with the right of use of, and having already used, desertified state-owned land and contracted operators of land collectively owned by farmers must adopt control measures and improve their land quality. In case of genuine inability to complete the control tasks, they can entrust to, or cooperate with, others to undertake the control work. For those who entrust or cooperate in the control work, an agreement should be signed, specifying the rights and obligations of the parties concerned.

Local governments at all levels in regions of desertified land and their administrative departments in charge and technical extension units should provide technical guidance to the desertification control activities of land use right holders and contracted operators. And in accordance with the concerned stipulations by the state, those involved in conversion of cropland to woodland and grassland, afforestation and pasture restoration and enclosures of sandy lands are entitled to the preferential policies offered by the government.

Article 26. Organizations and individuals that engage in desertification control activities for profit yet do not possess land ownership or use rights should sign an agreement with the land owner or use right holder in advance, and obtain the land use right in a legal manner.

Before activities commence, such organizations and individuals should submit an application to the forestry or other administrative departments authorized by the local government, and append the following documents:

- (1) Legal certificate land tenure rights and control agreement;
- (2) Control plan conforming to the NAPCD;
- (3) Proof of funds needed for the control work.

Article 27. The control plan referred to in Clause 2(2) of Article 26 of this Law should include the following contents:

- (1) Scope and boundary of the desertified land;
- (2) Targets and duration of control activities for different stages;
- (3) Major measures for combating desertification;
- (4) Source and quantity of water to be used as approved by the local administrative department in charge of water;
- (5) Land use objectives and vegetation management and protection measures;
- (6) Other items needing clarification.

Article 28. Organizations and individuals that engage in profit-making desertification control activities must undertake the control work in accordance with the control plan.

The state shall protect the legitimate rights of those undertaking desertification control activities. No other organization or individual can engage in control, development or utilization activities within the legitimate domain of those undertaking desertification control activities without the latter's permission.

Article 29. After completing the control activities, the concerned party should apply for approval to the governmental administration charged with combating desertification. Upon approval the administration should issue a certificate of inspection to the concerned party. Otherwise further control measures should be undertaken by the concerned party.

Article 30. The relevant organizations should take responsibility for activities combating desertification along railways, roads, rivers and water ditches, and in the surrounding areas of cities, towns, villages, factories, mines and reservoirs in desertified areas. Local governments shall issue letters of responsibility to these organizations, which should then will assume responsibility for afforestation, grass planting or other control measures.

Article 31. Local governments at all levels in regions of desertified land can organize local rural collective organizations and their members to voluntarily combat desertification. The funds and labor invested by the collective organizations and their members can be converted into equity, capital stock, or other forms of compensation.

Chapter 5. Safeguarding Measures

Article 32. The State Council and local governments at all levels in regions of desertified land should allocate funds in their financial budget for use in desertification prevention and control projects. When developing projects for poverty reduction, agriculture, water resources, mineral resources, energy and integrated agricultural development, a number of desertification prevention and control subprojects should be developed based on local site conditions.

Article 33. The State Council and provincial, autonomous region and municipal governments should formulate preferential policies to encourage and support activities to combat desertification.

In accordance with the relevant stipulations by the state, and on the basis of the area and difficulty of desertification prevention and control, local governments should provide such preferential policies as financial subsidies, tax discounts, reductions or exemptions to organizations and individuals that engage in desertification prevention and control activities.

Organizations and individuals that invest in desertification prevention and control will be exempted from certain taxes during the investment stage. During revenue generation the relevant taxes may be exempted or reduced.

Article 34. Those who engage in desertification control activities on state-owned land that is already desertified may be entitled, upon approval by local governments and in accordance with the law, to land use rights not exceeding 70 years. The State Council will stipulate the specific term and measures of management.

Those who engage in desertification control activities on collectively-owned land that is already desertified should sign a land contract with the land owner. The specific

contracting period and the other rights and obligations of the concerned parties shall be agreed upon in the land contract by the two parties concerned. In accordance with the land contract, the governments shall issue, in compliance with the law, a certificate of land use to the contractor.

Article 35. If, due to special ecological protection needs, rehabilitated land to be allocated as natural reserves or enclosed protection areas, the approving authority should provide appropriate economic compensation to those who have undertaken the rehabilitation.

Article 36. In accordance with the need to combat desertification, the state shall establish key desertification research, demonstration and extension projects, and offer such preferential policies as financial subsidies and tax exemption and reduction for scientific research and technical extension efforts relating to combating desertification, energy in sandy areas, desert crop cultivation, water-saving irrigation, prevention of grassland degradation and dry land farming in sandy areas.

Article 37. No organizations or individuals can retain or use desertification prevention and control funds for purposes other than for which they were intended.

Government auditing departments should implement auditing and supervision of use of desertification prevention and control funds in accordance with the law.

Chapter 16. Legal Liabilities

Article 38. Those violating Clause 1 of Article 22 of this Law and engaging in activities of vegetation destruction in enclosed protection areas should be instructed to cease their illegal activities by the administrative departments in charge of forestry and agriculture (animal husbandry) of local governments, on the basis of their respective authorities. For those who have made illegal gains, such gains will be confiscated. Those who have committed a criminal offence will be punished in accordance with the law.

Article 39. Those holders of the right of use of state-owned land and contract operators of collectively-owned land who are in breach of the stipulation of 1 of Article 25 of this Law and do not adopt desertification prevention and control measures and have caused serious land desertification shall be instructed to rehabilitate such lands within a defined period by the administrative departments in charge of agriculture (animal husbandry) and forestry of local government, on the basis of their respective authorities. For those who have caused serious desertification of state-owned land, local governments can withdraw their right of use of the state-owned land.

Article 40. Those violating this law who have aggravated desertification in undertaking desertification control activities for profit shall be instructed to cease their illegal activities by the administrative department in charge of applications for profit-making desertification control and may be fined 5,000 to 50,000 RMB per hectare.

Article 41. Those violating Clause 1 of Article 28 of this Law and failing to undertake control in accordance with the control plan, or violating Article 29 of this Law and failing to meet standards and who do not continue to do control work in accordance with the requirements, shall be instructed to cease their illegal activities and rectify them within a defined period by the local government administrative department in charge of applications for profit-making desertification control and may be fined the equivalent of one to three times the cost of rehabilitation.

Article 42. Those violating Clause 2 of Article 28 of this Law, and engaging in rehabilitation, development and utilization activities in desertified lands within regions of control of others without their approval shall be instructed to cease their illegal activities by the local governments administrative department in charge of applications for profit-making desertification prevention and control activities. The losses that are caused to those undertaking the control activities should be compensated for.

Article 34. Those involved in the following violations shall be sanctioned by the concerned work unit, the supervising organization or the superior administrative department in charge:

- (1) Violating Clause 1 of Article 15 of this Law, and failing to report in a timely manner the discovery of desertification or the deterioration of desertified land, or failing to instruct the concerned administrative department in charge to adopt measures after receiving the report;
- (2) Violating Clauses 2 and 3 of Article 16 of this Law, and approving the cutting of windbreak and sandbreak shelterbelts and networks;
- (3) Violating Article 20 of this Law, and approving land cultivation in desert margins, woodland and grassland.
- (4) Violating Article 22 of this Law, and arranging relocation of people in enclosed protection zones;
- (5) Violating Clause 3 of Article 22 of this Law, and undertaking, without approval, activities such as railway, road and other construction in enclosed protection zones.

Article 44. Those violating Article 37 of this Law, and retaining and using desertification prevention and control funds for purposes other than for which they were intended shall be sanctioned by the supervising department or the superior administrative department in charge. Those who have constituted a criminal offence will be pursued of their criminal responsibility.

Chapter 7. Supplementary Provisions

Article 46. The relevant laws mentioned in Clause 2 of Article 5 of this Law are *The Forestry Law of the People's Republic of China, the Grassland Law of the People's Republic of China, the Soil and Water Conservation Law of the People's Republic of China, the Land Administration Law of the People's Republic of China, the Environmental Protection Law of the People's Republic of China and the Meteorological Law of the People's Republic of China.*

Article 47. This Law will come into effect from January 1 2002.

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