

**Decree
of the President of Georgia**

N282, 30 June, 2000, Tbilisi

**On the subject of approving the bylaw:
“On the Principle of Conducting a Tender and an Auction for the purposes of
issuing a Licence and signing an Agreement of Forest Utilisation”**

**In order to ensure the compliance of the principle, which concerns the
subject of issuing a licence and signing an agreement of forest utilisation, with the
requirements of the Forest Code of Georgia:**

- 1. Approve the attached bylaw “On the Principle of Conducting a Tender
and an Auction for the purposes of issuing a Licence and signing an
Agreement of Forest Utilisation”.**
- 2. The decree should enter into force immediately upon its publication.**

E. Shevardnadze

**Approved by Decree of the President of Georgia
N282, 30 June, 2000**

Bylaw

**“On the Principle of Conducting a Tender and an Auction for the purposes of
issuing a Licence and signing an Agreement of Forest Utilisation”**

**Chapter I
General Clauses**

1. This bylaw is developed on the basis of paragraph 9 of Article 59 and subparagraph “b.h” of article 116 of the Forest Code of Georgia and defines the principle of conducting in Georgia a tender and an auction for the purposes of issuing a licence and signing an agreement of forest utilisation.
2. A tender committee has to be set up in State Department of Forestry of Georgia in order to conduct a tender and an auction. Together with the specialists of the department, the committee should include the representatives of Ministry of Economics of Georgia, Ministry of Finance of Georgia, Ministry of Protection of Environment and Natural Resources of Georgia, Ministry of Agriculture and Food of Georgia, State Department of Protected Territories, Forest Reserves and Hunting of Georgia, State Chancellery of Georgia, Committee of Environmental Protection and Natural Resources of the Parliament of Georgia, Regional Administrations and Non-Governmental Organisations.
3. [...] All technical activities are undertaken by Forest Management and Forest Utilisation Division of State Department of Forestry of Georgia.
4. A forest utilisation licence is the document certifying the right of forest exploitation (utilisation of forest for the purposes of obtaining timber) and the right of producing timber products and low-grade timber materials.
5. A forest utilisation agreement is the document certifying the right of the utilisation of the forest located at the territory of State Forest Fund (Reserve), concerning the following types of forest utilisation: setting up plantations; utilisation of non-timber resources; forest utilisation for special, scientific-research and educational purposes, for the purposes of health resorts, for recreational purposes, for the purposes of conducting sporting activities, for cultural-health purposes and utilisation, for agricultural purposes, of the land that does not belong to the category of agricultural land of State Forest Fund (Reserve).
6. A tender for utilising the resources of Forest Fund (Reserve) is a procedure for obtaining the right of forest utilisation, as a result of which a licence will be granted to a winner or an agreement will be signed with him/her.
7. An auction for utilising the resources of Forest Fund (Reserve) is a procedure for obtaining the right of forest utilisation, which is conducted in the case when the projects that are participating in the tender satisfy in equal terms the conditions of the tender and a winner is that contestant, which satisfies the conditions of the auction conducted for obtaining the right of forest utilisation and which offers the largest bid (sum) to the state.

Chapter II

Forest Utilisation Licence or/and Agreement

1. A forest utilisation licence or/and agreement defines:
 - a) The place of forest utilisation;
 - b) The type of forest utilisation;
 - c) The durations of forest utilisation;
 - d) The types and volumes of the resource that has to be exploited;
 - e) The allowable forms and methods of resource exploitation;
 - f) The cost of resource, taxes payable and fee in accordance with the existing legislation;
 - g) The rights and responsibilities of an user of a forest;
 - h) Other conditions defined by the tender committee in accordance with the Forest Code of Georgia.
2. A forest utilisation licence is issued by means of conducting a tender or an auction:
 - a) For the purposes of forest exploitation (for general use or selective cutting) for short-term or for long-term periods of time.

A licence for the purposes of forest exploitation for the period of more than five years will be issued to that legal entity, which, simultaneously with the exploitation of resources, will ensure carrying out the activities associated with forest preservation, conservation and regeneration (as envisaged by a forest management project) on the territory that is assigned to it.
 - b) For the purposes of producing timber products (including forest nursery) and low-grade timber materials for a long-term period of time.
3. A forest utilisation agreement is signed by means of conducting a tender or an auction for the purposes of forest utilisation for a long-term period of time.
4. Only one licence will be issued or only one agreement will be signed for the purposes of utilising the same type of forest at the same place of State Forest Fund (Reserve).
5. A licence undergoes a state registration and is issued to the contestant that won a tender or an auction in two weeks time from the moment when the tender or auction was conducted.
6. A licence or an agreement for the utilisation of the forest located at the territory of State Forest Fund (Reserve) is granted by State Department of Forestry of Georgia to the user of a forest that won a tender or an auction, and at the territory of an autonomous republic, in accordance with the principle determined by this department – the form, the principle of registration and the principle of issuance of a forest utilisation licence by the Departments of Forestry of an autonomous republic are developed and approved by State Department of Forestry of Georgia.
7. A forest utilisation licence and agreement is valid from the date of its issue to a user of a forest for the period of time defined in it.
8. A forest utilisation licence and agreement is granted to a user of a forest and its transfer is not allowed.

Chapter III

The Methods of Conducting a Tender or an Auction

1. The tender committee conducts an open tender.
2. In an open tender or auction may participate those legal entities or private persons, which desire to become a user of a forest.

Chapter IV

The Stages of Organizing and Conducting a Tender or an Auction

1. The stages of organizing and conducting a tender or an auction include:
 - a) To define the subject of a tender;
 - b) To prepare the tender documentation (by means of inviting technical or financial experts);
 - c) To publish an announcement about conducting a tender or an auction;
 - d) To receive the applications from the participants in a tender or an auction;
 - e) To evaluate the received tender proposals and to declare a winner;
 - f) To sign the statement (transcript) of the tender committee;
 - g) To issue a licence or sign an agreement.
2. A tender or an auction for the purposes of issuing a licence or signing an agreement is conducted in each region (in a regional context).
In special cases the meetings of the tender committee can be conducted locally (in regions) on the basis of the decision of the tender committee.

Chapter V

Basic Principles of Conducting a Tender or an Auction

1. The tender committee defines the date and place of conducting a tender or an auction.
2. The tender committee publishes the announcement about conducting a tender or an auction in mass media, and necessarily in newspapers “Saqartvelos Respublika” and “Svobodnaia Gruzia”.
3. The announcement about conducting a tender or an auction is published 30 days prior to the date on which it takes place.
The announcement should include:
 - a) The place of conducting a tender or an auction;
 - b) The deadline for receiving the proposals (applications) from participants (indicating date and time of deadline);
 - c) The address, telephone and fax of the tender committee (at/on which the tender documentation can be received).
4. The disclosure of the envelopes (documentation) that were sent and submitted by contestants is carried out at a meeting of the tender committee in their presence.
5. The proposals that were submitted after the expiration of an application deadline are returned to contestants without opening an envelope.

6. A tender or an auction will be deemed as failed if none of the contestants will meet (satisfy) the terms and conditions of the tender.
7. The contestants participating in a tender have to pay the fees for taking part in the tender, covering the expenses associated with the preparation of the tender documentation and other services, the amount of which is equal to one percent of the standard cost of the resources that have to be exploited, and which have to be transferred to non-budgetary (special funds) account of State Department of Forestry of Georgia and have to be used for covering the expenses associated with the conduct of the tender.
8. The expenses spent for participating in a tender are not refunded to the contestants that were participating in the tender.

Chapter VI

Tender Documentation

1. The tender committee prepares a tender documentation for each tender or auction, which includes complete information about the subject of the tender and about the type of forest utilisation. The tender documentation should include the following information:
 - a) The type of forest utilisation;
 - b) Location;
 - c) The volume of the resource of forest fund (reserve);
 - d) The duration of forest utilisation;
 - e) The cost (price) of resource and taxes to be paid;
 - f) The price of (fee for) a tender documentation;
 - g) Other conditions set up by the tender committee.
2. The tender committee defines the volume of the resource of forest fund (reserve): in case of forest exploitation by means of “general” cutting of trees – in accordance with the limit of forest exploitation, which is agreed with Ministry of Protection of Environment and Natural Resources of Georgia and which is approved by State Department of Forestry of Georgia, and in case of forest exploitation, producing timber products and low-grade timber materials by means of “selective” cutting of trees – on the basis of the forest management materials (documents), in accordance with the limit of forest exploitation, which is defined by State Department of Forestry of Georgia.

Chapter VII
The Requirements to the Participants
of a Tender or an Auction

1. In order to participate in a tender or an auction, a contestant should submit the following documents:
 - a) Statement;
 - b) A copy of a registered charter allowing the conduct of entrepreneurial activities;
 - c) Bank reference concerning the creditworthiness of an applicant;
 - d) The type and volume of the resource that has to be exploited;
 - e) A copy of a licence obtained in order to carry out the activities that according to Georgian legislation are subject to licensing;
 - f) Information about the technical and technological capabilities to carry out the activities associated with forest utilisation;
 - g) Proposals about the location that is desirable for the exploitation of forest resources;
 - h) The ways of the exploitation of forest resources;
 - i) The document certifying the payment of the tender documentation fee.
2. An applicant should supplement the documentation, which has to be submitted to the tender committee, by the list of those persons who are authorised to act on behalf of the applicant and who have a right to sign legal documents.
3. An applicant should submit the documentation in a doubled sealed envelope. The outer envelope should indicate only the name and address of the tender committee. The inner envelope in addition should indicate the name and address of the applicant.
4. The documentation that was sent or submitted by an applicant is kept in the Forest Management and Forest Utilisation Division of State Department of Forestry of Georgia, indicating the date and time of the receipt of the application.
5. The following applicants are not allowed to participate in a tender or an auction:
 - a) The applicants who submitted a false information to the tender committee;
 - b) The applicants who did not submit in time the documentation required for taking part in a tender or an auction.
6. The decision about not allowing a specific applicant to participate in a tender or an auction is taken by the tender committee.

Chapter VII
Regulations for conducting
a Tender or an Auction

1. The tender committee is headed by chairman of the committee, who is appointed by chairman of State Department of Forestry of Georgia.
2. The overall number of the members of the committee is 23, while the number of the members of the working committee is equal to 15 (the representatives of the regional administrations participate when distributing the resource existing in the relevant region).

- The tender committee is authorised to conduct a tender or an auction, if it is attended by at least two third of its members.
3. A winner of a tender or an auction will be the contestant, which receives the votes of the majority of the members that are included in the tender committee. The voting is conducted in an open manner. If the votes will be distributed equally, the preference will be given to the vote of the chairmen of the tender committee.
 4. The results of a tender or an auction is recorded into a transcript, which should include the following information:
 - a) The list of the members of the tender committee;
 - b) The list of the members of the tender committee, who took part in the evaluation of tender proposals;
 - c) The list of applicants participating in the tender;
 - d) Brief review of the proposals submitted by applicants.The chairman of the tender committee should approve the transcript of a tender.
 5. If there was only one proposal submitted for participating in a tender, a licence is issued or an agreement is signed in compliance with the terms and conditions of the tender. If the applicant does not satisfy the conditions of the tender, the tender will be deemed as failed.
 6. In the course of determining a winner in a tender, a priority is given to those users of a forest, which operate at the location (in the region), where the resource has to be exploited, also a priority is given to those legal entities, which will carry out the processing of the exploited resource within the country.
 7. When issuing a forest utilisation licence and when equal conditions exist, a priority is given to the investor (applicant), which employs a private investment in order to define a cutting area.

If an investor was not able to obtain a licence, the holder of a licence (the winner in a tender) should refund to the investor the costs that were incurred for the purposes of defining a cutting area.
 8. In case of conducting an auction, a winner is that applicant, which satisfies the terms of the auction and offers the largest bid (sum) to the state for obtaining the right of forest utilisation.

A decision of the committee can be changed only by the decision of the committee itself.

Chapter IX

The Rights of Winners in a Tender or an Auction (Holders of a Forest Utilisation Licence or Agreement)

1. A holder of a forest utilisation licence or agreement has the right to utilise the forest after producing the licence or agreement to the relevant territorial branch of State Department of Protected Territories, Forest Reserves and Hunting of Georgia or State Department of Forestry of Georgia.
2. A holder of a forest utilisation licence or agreement has the right:
 - a) To utilise forest resources in accordance with the forest utilisation document;

- b) To demand the fulfilment of the terms envisaged in the licence or agreement from the relevant agencies that are responsible for forest management;
 - c) To construct special purpose temporary buildings that are necessary for implementing in life a forest utilisation right, subject to getting an approval of the relevant agencies that are responsible for forest management;
 - d) To use existing forest roads and other infrastructure for implementing in life a forest utilisation right;
 - e) To participate in the activities associated with forest conservation, forest regeneration and forest growing, also in the planning and implementing the forest utilisation issues;
 - f) To hold, use and manage the resource that was obtained as a result of forest utilisation.
3. It is not allowed to unlawfully suppress the right, which is granted to a user of a forest by means of a forest utilisation document.

Chapter X

The Responsibilities of Winners in a Tender or an Auction (Holders of a Forest Utilisation Licence or Agreement)

1. A holder of a forest utilisation licence or agreement has the responsibility:
 - a) To get acquainted with the forest utilisation rules and to follow these rules;
 - b) To carry out only that type of forest utilisation, which is defined by a forest utilisation document;
 - c) To carry out the activities that are associated with forest utilisation in such manner, using such methods and in such ways, which reduces or eliminates a negative impact of forest utilisation on the environment and existing conditions of forests.
 - d) To comply with the requirements of the Forest Code of Georgia and Forest Utilisation Bylaw.
2. A user of a forest, that won a tender or an auction, before obtaining the licence is obliged to pay the fees defined by the bylaw “on the principle of the fees that are needed for the preparation of the documentation, which is necessary for issuing the document authorising a forest utilisation, including the fees needed for defining cutting area, and on the way of its payment “ for delineating volume of the resource that has to be exploited, and also (is obliged to pay) the licensing fee in the amount as defined by legislation.

Chapter XI
**The Principle of Limiting, Revoking or Annuling a Forest Utilisation
Licence or Agreement**

1. The decision about limiting, revoking and annulling the right of forest utilisation is taken by the relevant agency that has issued a forest utilisation document or by a higher authority and the forest utilisation is cancelled immediately upon notifying in a written form a user of a forest about this.
2. A forest utilisation is cancelled by the initiative of person/legal entity, which has the right of forest utilisation, in one-month time from the date of notifying in a written form the agency that has issued a forest utilisation document.
3. A dispute arisen in case of cancelling the right of forest utilisation is solved by a court.

Chapter XII
Liquidation of the Tender Committee

The liquidation and restructuring of the tender committee, which was set up for the purposes of issuing a licence and signing an agreement of forest utilisation, can be carried out in accordance with the decree of the chairman of the State Department of Forestry of Georgia.