

DECISION No.187/1999/QĐ-TTg OF SEPTEMBER 16, 1999 ON RENEWAL OF THE ORGANIZATION AND MANAGERIAL MECHANISM AT THE STATE FORESTRY FARMS

THE PRIME MINISTER

Pursuant to the Law on Organization of the Government of September 30, 1992;

Pursuant to the Law on State Enterprises of April 30, 1995;

Pursuant to the Law on Protection and Development of Forests of August 19, 1991;

Pursuant to the Land Law of July 14, 1993 and the Law of December 2, 1998 on Amendments and Supplements to a Number of Articles of the Land Law;

Pursuant to the provisions on the reorganization and renewal of the managerial mechanism at the State agricultural enterprises issued together with Decree No. 12/CP of March 2, 1993 of the Government;

At the proposal of the Minister of Agriculture and Rural Development and the opinions of the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Labor, War Invalids and Social Affairs, the Government Commission for Organization and Personnel, the Vietnam State Bank and the General Director of Land Administration,

DECIDES:

Article 1.- Objective:

To renew the organization and managerial mechanism at the State forestry farms aimed at raising the efficiency of production and business of the forestry farms, performing well their pivotal role in forestry production, the service center of material and technique supply, processing and marketing of products for the organizations, households and individuals engaged in forestry and agricultural production, contributing to the protection and development of forestry and socio-economic development in the locality.

Article 2.- Principles of renewal of the organization and managerial mechanism at the State forestry farms:

1. To continue maintaining and strengthening the State forestry farms in the large-scale and concentrated forest land areas which need direct State management and investment and which can hardly be left to the care of other economic sectors; and the State forestry farms in deep-lying and remote areas in order to serve

as the nucleus for socio-economic development and to ensure national defense and security in the localities.

2. To ensure that the State forestry farms can develop their right to autonomy in production and business; that the forestry workers become the real and actual masters of each forest they have contracted to tend, and abolish the State subsidy mechanism in the business activities of the forestry farms.

3. To ensure a harmonious handling of the relations between the interests of the laborers, the State and the forestry farm, between the forestry farm and the locality.

Article 3.- Rearrangement of the existing State forestry farms:

1. The following State forestry farms shall be maintained and strengthened in order to operate according to the business mechanism:

a/ State forestry farms managing natural forests which are production and protection forests of little strategic importance.

b/ State forestry farms planted with industrial material forests

The main task of the State forestry farms are to plant, protect and foster forests, exploit and process forest products, supply raw materials to industrial processing establishments and other consumption needs of the national economy.

Apart from their main tasks, the State forestry farms can conduct integrated business in agriculture, forestry, fishery, industry and service in order to effectively use their potentials in labor, land and forest fund allocated to them.

In the areas of very strategic and strategic protection forests interspersed with production and protection forests of little strategic importance of the forestry farm covering less than 5,000 hectares and as such not eligible for setting up a managing board of protection forests, these protection forests shall continue to be managed by the State forestry farm according to the statute of protection forests.

The protection and planting of protection forests in very strategic and strategic areas is considered a public utility activity performed by the forestry farm according to the task assigned by the State.

2. Transformation of State forestry farms into Managing Boards of protection forests

To transform the State forestry farms covering 5,000 and more hectares or with more than 70% of the forest land under management belonging to the plan for protection of strategic and very strategic areas

(set up by decision of the Prime Minister or the Presidents of the People's Committees of the provinces or cities) into Managing Board of protection forests operating according to the mechanism of non-business revenue-earning economic units. The area of production forests and forest land interspersed with protection forests shall also be assigned to the Managing Board for planting, protection, exploitation and use in order to create a source of revenue for the budget.

3. Conversion of State forestry farms into other forms of business organization:

State forestry farms, which are meeting difficulties in production and business and which are managing a forest area and land planned for planting production forests of less than 1,000 hectares interspersed with agricultural land and located near a population center, shall be converted into an appropriate form of business organization in order to provide service for the need of agricultural, forestry and industrial production.

Before the conversion, a plan must be drawn up and submitted to the competent authority for approval in order to determine the need of land to be used for the activities of the new organization. The remaining forests and land shall be handed over to the local administration for assignment or lease to organizations, households and individuals for use according to provisions of law.

Article 4.- Management and use of forests and forest land:

1. The People's Committees of the provinces and centrally-run cities together with the managing agencies of the forestry farms (if any) shall revise the land and forest areas of the forestry farms not yet issued with certificates of land use right and clearly define the boundaries on the map and on the terrain the part of land assigned to the forestry farm for management.

By the end of the year 2000, the People's Committees of the provinces and centrally-run cities must have completed the allocation of land and the issue of certificates of land use right associated with the assignment of forests to the State forestry farms under the guidance of the General Land Administration and the Ministry of Agriculture and Rural Development. The forestry farm shall hand over the remaining land and forests to the local administration which shall reallocate or lease them to organizations or families of public employees and workers of the forestry farm and family households of peasants in the locality for use according to provisions of law.

2. To assign the right to stable and long-term management and use of forests to the State forestry farms on the basis of the planning for three kinds of forest (special purpose, protection and production) and the classification of forests according to their state, determination of their sizes and quality as basis for inspecting the forestry farms in the protection, development and use of forests according to current regulations.

Within the first quarter of the year 2000, the Ministry of Agriculture and Rural Development must issue the regulation on the order and procedures of allocating and assigning forests, the method of forest classification and determination of the quality of the forests prior to the allocation or assignment as basis for guiding the implementation by the different levels and branches.

3. For production and protection forests of little strategic importance which are natural forests, the forestry farms must take technical forestry measures to foster and enrich them, are allowed to exploit and use them according to the plan of forest restructuring and exploitation design already approved by the provincial People's Committee.

Each year, after the exploitation plan is approved, the forestry farm shall together with the contractor (organization, family household, individual) agree on the plan of exploitation and supervision of the exploitation. The forestry farm is authorized to organize its own exploitation force or contract the forest to another unit for exploitation according to the method of expenditure bidding.

4. For production forests which are planted forests, the forestry farm is authorized to decide the time and method of exploitation and must have a plan for reforestation after exploitation. Forest products taken from the planted forests shall be freely circulated on the market.

5. For very strategic and strategic protection forests which are natural forests managed by the forestry farm, the latter can exploit the dead trees, broken trees and diseased trees or trees without top, decrepit trees or trees growing too densely, at a maximum rate of 20% according to the design for exploitation already approved by the provincial People's Committee.

For natural bamboo forests, if their cover age rate reaches 80% they can be exploited at a maximum rate of 20% according to the exploitation design already approved by the provincial People's Committee.

6. For strategic and very strategic protection forests which are planted with State budget funds, the forestry farm is allowed to exploit the supporting trees and

fully harvest the forest by-products.

When the main forest tree has reached the norms for exploitation, the forestry farm is authorized to exploit the forest on a rotary basis at an intensity not exceeding 10% of the areas which have been planted into forests by the method of select cutting, cutting by bands or by patches over an area of less than 1 hectare in the strategic areas, and under 0.5 hectare in very strategic areas.

The forestry farm must take measures to reforest within 12 months after exploitation.

Article 5.- Labor policy:

1. The households of public employees and workers at the forestry farms (including those in active service and those who have stopped working for health reason or have retired), who are lawfully living in the locality and have not received residential land, the forestry farm shall propose to the local administration to allocate land and issue certificates of residential land use right to them.

2. The forestry farm shall coordinate with the local People's Committee at the commune (ward or township) in proposing that the People's Committee of the district, town or city under the province to allocate land to them and issue certificates of land use right over agriculture and forest land to the members the family households of public employees and workers at the forestry farm eligible for land allocation under the provisions of Decree No. 64/CP of September 27, 1993, Decree No. 85/1999-CP of August 28, 1999 and Decree No. 2/CP of January 15, 1994.

The area of land for allocation shall be equal to the average allocated to the peasant households in the locality.

3. The officials and public employees at the forestry farm, who cannot be assigned new jobs during the process of production rearrangement and reorganization nor can be retrained for switching to another trade or occupation, shall be relieved of their jobs as currently prescribed. Where there are difficulties in budget, job leavers by their own free will can be paid the job severance allowance with the value of production forests belonging to the farm. After exploitation of the forests the receiver of job severance allowance with the value of forest trees shall have to return the land to the forestry farm or shall continue to work on contract with the forestry farm. If he/she asks to stay in the locality of the forestry farm, the local administration has the responsibility to register him/her as permanent resident, allot agriculture or forest land to them where they can enjoy

favorable production conditions at the rate of the average size allotted to the peasant households in the locality.

4. While implementing Clauses 1, 2 and 3 of this Article, if the locality no longer has any land fund for allotment, the forestry farm shall propose to the local administration to use its land for allotment to the families in the above-mentioned categories. But this must be done according to planning and care must be taken not to cause parceling of the land of the forestry farm, and such land must be taken out of the planned land fund of the forestry farm.

5. For public servants and workers who are working at the forestry farm and who are contracting to work on the land and forests of the forestry farm but who do not receive wage according to the grades and ranks as stipulated by the State and derive their revenues from the result of production through the contract on land and forests, they shall pay their social insurance premiums and enjoy the social insurance regime as separately stipulated by the Government on the policy of social insurance for laborers working in State agricultural and forestry farms.

Article 6.- Fiscal policy:

1. The proceeds from the sales of timber and main forest products during the exploitation of the forests shall be dispensed as follows:

- To pay for the setting up of the forestry farm, if any, (including payments for the contracts with the family households, individuals and organizations working on contracts of planting, protecting and fostering forests as stipulated in the contract), to pay for the expenses in the exploitation, transportation and marketing of products;

- To fulfil the financial obligation toward the State;
- To set up the funds of the forestry farms as stipulated by law.

2. The State shall return to the State forestry farm the whole enterprise income tax so that the farm may invest in the reforestation and fulfil other public-utility tasks of the forestry farm under the project already approved by the provincial People's Committee.

3. The State assigns to the State forestry farm the various funds originating from the budget which have been earlier invested in the production forests in order to supplement the self-procured capital of the forestry farm.

4. The State forestry farm is entitled to the policy of investment support of the State in order to achieve the following projects: to protect, set up boundaries

to regenerate and enrich natural forests as in the Project of planting concentrated material forests provided for in Decree No. 43/1999 /ND-CP of June 29, 1999 of the Government on State credits for development investment.

5. The State budget shall invest 100% of the expenditures as in the project approved by the provincial People's Committee for State forestry farms for the building of the essential infrastructure in service of production and the fulfillment of public-utility tasks. These comprise:

- Planting, protecting and fostering the very strategic and strategic protection forests under the management of the forestry farm.

- Building the essential infrastructure in service of production in the area planned for concentrated material forest (system of trunk roads, timber port and yards...)

- Performing tasks aimed at supporting socio-economic development and ensuring national defense and security in the highlands, deep-lying and remote areas.

Article 7.- Renewing the organization of management within the forestry farms:

1. State forestry farms must conduct assignment of land and forests on a stable and long-term basis according to Decree No. 1/CP of January 4, 1995 of the Government.

When assigning forest land and forests to organizations and family households and individuals, the forestry farm must write down contracts clearly stipulating: rights and interests, responsibility and obligations of the contracting party and the contracted party; ensuring assuredness to the contracted party to invest capital and labor in tending, protecting and developing forests and to enjoy an appropriate proportion of the main products from the forests.

In addition, the contracted party for forest land and forests of the State forestry farm is also eligible for by-products collected from the forest (except the forestry products of the rare and precious categories stipulated in Decree No. 18/HDBT of January 17, 1992), and is allowed to invest in planting agricultural and forestry plants interspersed with forest trees in order to increase its income and improve its own life.

2. State forestry farms are allowed to organize specialized labor groups and teams to directly carry out the production tasks of the farms in the difficult forest areas where assignment to family households or other organizations and individuals would be ineffective.

3. State forestry farms are allowed to use forestry

land without forests and make use of the advantages of the forestry farm (on capital, technique, market...) to enter into joint ventures or mutually supportive operations with the households of public employees and workers at the forestry farm, as well as peasant families and organizations and individuals in the country and abroad to plant forests, combine agricultural and forestry production, process and market products from the forests, and to conduct services for the other economic sections in the locality in planting, protecting and developing forests.

4. State forestry farms shall coordinate with the forest control agency in appointing rangers specialized in monitoring the forestry farm, and helping the forestry farm director to direct the specialized forest protection force of the forestry farm, conduct patrol to protect the forests and handle violations of the forest resources including forcing the violator to pay damages and recovering properties for the forest owner as prescribed by law.

5. Each forestry farm needs only a director, a deputy director, a chief accountant and a number of assisting technicians and experts. At the level of production team, there needs only a team leader and a technician of the team.

Article 8.- Organization of implementation:

The Ministry of Agriculture and Rural Development shall assume the main responsibility and coordinate with the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Labor, War Invalids and Social Affairs, the General Land Administration and the related branches in directing the People's Committees of the provinces and centrally-run cities and the Corporations that own State forestry farms to draw up the plan of arranging and renewing the organization and management at the State forestry farms according to this Decision and complete the realization of the project within the year 2000.

Article 9.- This Decision takes effect 15 days after its signing. The earlier stipulations which are contrary to this Decision are now annulled.

Article 10.- The ministers, the heads of the ministerial-level agencies and agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to organize the implementation of this Decision.

For the Prime Minister
Deputy Prime Minister
NGUYEN CONG TAN